



Demos

Protecting Voter Registration

An Assessment of Voter
Purge Policies in Ten States



Demos is a movement-oriented think tank committed to racial justice. Through research, advocacy, strategic communications, litigation, and deep partnerships with grassroots organizations across the country, we build power with and for Black and brown communities.

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Executive Summary

An inclusive democracy demands full access to the ballot by all eligible voters, yet many states use election procedures that create unnecessary burdens on the right to vote. This report focuses on an important but often overlooked voting barrier: voter purges. Too often, registered voters are kicked off the voter rolls in error, with little or no notice and opportunity to correct the error. When these voters show up to the polls, they may be turned away and their voices silenced—even though they are fully eligible to vote.

Between the close of registration for the 2020 general election and the close of registration for the 2022 general election, states reported removing 19,260,000 records from their voter registration rolls. This was equal to 8.5% of the total number of voters who were registered in the United States as of the close of registration for the 2022 general election.¹ Of course, some removals are necessary for the proper maintenance of voter rolls, such as for persons who have died or have moved away from their voting jurisdiction. One of the most frequent reasons for purging, however, was “inactivity,” or failure to respond to a confirmation notice and not voting in at least two consecutive federal general elections. This reason accounted for more than a quarter of all removals while 26.8% and 25.6% were for address change or death of the registrant, respectively.²

Flawed voter purge practices—such as removals for inactivity or based on inaccurate identification of felony status or citizenship status—often disproportionately target voters of color, naturalized citizens, and other commu-

¹ U.S. Election Commission, Election Administration and Voting Summary 2022 Comprehensive Report (Report to 118th Congress) 159, available at https://www.eac.gov/sites/default/files/2023-06/2022_EAVS_Report_508c.pdf.

² *Id.* at 160.

nities,³ and can prevent many eligible persons from exercising their right to vote. In addition, too many states lack readily available data on voter purges, which prevents advocates, organizers, and voters from stopping improper purges before they happen or correcting an erroneous purge in time for an election. As a result, tens of thousands of eligible voters who have taken all the necessary steps to exercise their right to vote are wrongly prevented from making their voices heard in our democracy.

Dēmos conducted an analysis of voter removal practices, the safeguards in place to protect eligible voters from disenfranchisement, and the accessibility and transparency of voter registration data across ten states: Arizona, California, Georgia, Indiana, Louisiana, Michigan, North Carolina, Ohio, Texas, and Wisconsin. The voter removal laws we analyzed include both routine list maintenance laws—those allowing election officials to remove voters who have moved, died, or otherwise become ineligible to vote⁴—and more problematic practices, such as laws targeting voters for removal for not voting (also known as a “use it or lose it” process), allowing mass third-party challenges to voters’ registrations, and granting catch-all removal authority to election officials without proper safeguards. We evaluated these states on four dimensions:

- Does the state follow practices that minimize the risk of erroneous removal?
- Does the state have safeguards in place that allow persons who were erroneously purged to correct their information and vote at election time?
- Does the state have accessible data on voter removals?
- Does the state provide transparency on the reasons for removal and other data allowing an analysis of whether removals are improperly targeting specific demographic groups?

³Jane C. Timm, “Fraud hunters challenged 92,000 voter registrations last year,” NBC News, February 27, 2023 (noting that analysis of Cobb County voter challenges showed disproportionate impact on Black voters and young voters), available at <https://www.nbcnews.com/politics/elections/fraud-hunters-challenged-92k-georgia-voter-registrations-2022-rcna71668>; Ari Berman, *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (New York: Farrar, Straus and Giroux, 2015), 195-97; Michael C. Herron and Daniel A. Smith, Estimating the Differential Effects of Purging Inactive Registered Voters, Conference Draft prepared for the 2018 Election Sciences, Reform, and Administration Conference at the University of Wisconsin-Madison, 20-21, 27 (available at <https://esra.wisc.edu/wp-content/uploads/sites/1556/2020/11/herron.pdf>); Texas League of United Latin Citizens v. Whitley, 2019 WL 7938511 (W. D. Texas 2019); *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1840-41 (2018) (Sotomayor, J., dissenting) (citing Brief for National Association for the Advancement of Colored People et al. as Amici Curiae on behalf of Respondents, 18-19, available at <https://advancementproject.org/resources/amicus-brief-filed-husted-v-philip-randolph-institute/>); NBC News “Do Voter Purges Discriminate Against the Poor and Minorities?” Aug 2016, available at <https://www.nbcnews.com/news/us-news/do-voter-purges-discriminate-against-poor-minorities-n636586>; “North Carolina Voter List Maintenance: 2023 Update,” Southern Coalition for Social Justice, available at <https://southerncoalition.org/resources/north-carolina-voter-list-maintenance-2023-update/>; U.S. Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election*, Ch. 1, Table 1-4 and accompanying text, June 2001 (available at <https://www.usccr.gov/pubs/vote2000/main.htm>).

⁴For example, a voter may become ineligible due to an adjudication of incapacity or conviction of a disqualifying felony.

We chose these ten states because their voter removal laws and safeguards, as well as the accessibility and transparency of their registration data, provide representative examples of the spectrum of laws and practices across the United States. Additionally, many of these state legislatures are either considering bills or have recently enacted laws that impact how voters are removed from the voter rolls. In the 2022 legislative session, state lawmakers introduced at least 43 bills that would allow or require problematic voter purges, and in 2023, as of the writing of this report, states are considering at least 28 additional bills.⁵

We found that none of these states received a perfect score for removal practices or for safeguards against erroneous removal, which are the most important in protecting ballot access for eligible voters. Only a few states received a perfect score on data accessibility or transparency, but good data alone will not prevent eligible voters from being inappropriately purged.

All ten states must modernize their removal practices to ensure that only ineligible voters are removed from the rolls, and all need better systems to ensure that erroneously removed eligible voters can re-register and vote in the current election. Additionally, almost all these states need improved policies to ensure that they collect and publish voter registration data in an accessible and transparent format. While we examine only a subset of states, we know from work with partners in other states that the problems identified here are not confined to these ten states but are likely representative of issues across the entire United States.

Bottom line: Every examined state must improve its laws and practices to guard against improper voter registration purges. Further, based on our analysis of these ten states, we suspect the issues documented within this report are widespread and must be examined and addressed in states nationwide. We offer actionable solutions here to ensure that no voter is removed from the rolls without a legitimate reason—and that no eligible voter is denied the right to vote because of administrative malfunctions. By following these recommendations, states can improve their voter removal practices and protect the strength of our democracy while ensuring the integrity of their voter registration rolls.

⁵ Comprehensive Bill Search, Voting Rights Lab, available at <https://tracker.votingrightslab.org/pending/search> (last visited April 20, 2023)

Background

Federal law establishes parameters for states' maintenance of their voter rolls, including the National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act of 2002 (HAVA). These laws allow for certain routine practices, such as removing voters who have moved, died, or are no longer eligible to vote due to felony convictions or determinations of mental incapacity. However, states differ greatly in applying and implementing these federal laws. As several examples show—and our analysis explains—many state list-maintenance laws and practices may erroneously remove eligible voters from the voter registration rolls.

Abusive mass challenges to voters' eligibility

In 2021, the Georgia legislature enacted an anti-voter law allowing a single voter to make an unlimited number of challenges to other voters' eligibility.⁶ During the 2022 election, private groups and individuals made mass challenges targeting tens of thousands of registered voters. A demographic analysis of one county showed that Black voters and young voters were disproportionately targeted for these challenges.⁷ The law is currently under challenge in federal court.⁸ Similar mass challenges were successfully challenged in North Carolina in 2018.⁹

Faulty removals for felony convictions

In Arkansas, faulty data on felony convictions led to erroneous purges of eligible voters prior to the 2016 election. The Arkansas Secretary of State sent county clerks the names of more than 50,000 people who were supposedly ineligible to vote because of convictions. County clerks began to remove these voters without any notice to the voters before later discovering

⁶ GA AB 202, amending Ga. Code § 21-2-229.

⁷ Jane C. Timm, "Fraud hunters challenged 92,000 voter registrations last year," NBC News, February 27, 2023, available at <https://www.nbcnews.com/politics/elections/fraud-hunters-challenged-92k-georgia-voter-registrations-2022-rcna71668>.

⁸ Fair Fight, Inc., et al. v True the Vote, et al., No. 2:20-cv-00302-SCJ (N.D. Ga).

⁹ *North Carolina State Conference of NAACP v. Bipartisan State Board of Elections and Ethics Enforcement*, 2018 WL 3748172 (M.D. N.C. 2018) (enjoining use of generic evidence to make mass challenges within 90 days of an election as violating the NVRA).

that the purge list had thousands of errors, including at least 4,000 people who did not have felony convictions and remained eligible to vote.¹⁰ Similar erroneous removals based on faulty conviction data have been documented in states such as California and Florida, among others.¹¹ Because our discriminatory criminal legal system disproportionately targets people of color for arrest, conviction, and harsh sentencing, these faulty removals are especially harmful for communities of color.

Erroneous targeting of naturalized citizens

Naturalized citizens have also been targeted for purging based on erroneous data. Prior to the 2020 election, Texas sent notices to some 95,000 voters demanding that they provide proof that they were American citizens based on outdated motor vehicle records. A federal district court found that “perfectly legal naturalized Americans were burdened with what the Court finds to be ham-handed and threatening correspondence from the state,” and the state ultimately was forced to withdraw the notices.¹² However, the chilling effect likely lives on in the communities targeted by these flawed, discriminatory efforts.

Flawed removals for non-voting

Additionally, some states have adopted policies that target people for removal from the rolls simply because they have not voted frequently enough in the eyes of state officials. For example, Ohio adopted a voter removal law that directed local election officials to identify voters who had not voted for two years and send them address confirmation notices. Voters who did not reply to the notice and then did not vote in the next two federal elections

¹⁰ Chelsea Boozer, “Error flags voters on Arkansas list; thousands in jeopardy of having their registration canceled,” *Arkansas Democrat Gazette*, July 25, 2016, <https://www.arkansasonline.com/news/2016/jul/25/error-flags-voters-on-state-list-201607/>. Benjamin Hardy, “Data mix-up from Ark. Secretary of state purges unknown number of eligible voters,” *Arkansas Times*, July 25, 2016, <https://arktimes.com/arkansas-blog/2016/07/25/data-mix-up-from-ark-secretary-of-state-purges-unknown-number-of-eligible-voters>.

¹¹ Ari Berman, *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (New York: Farrar, Straus and Giroux, 2015), 195-97; *All of Us or None v. Logan*, Case No. BC705656, Notice of Ruling on Defendant’s Motion for Summary Judgment and Scheduling Order, 2-3 (Superior Court of Los Angeles, Nov. 4, 2020); U.S. Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election*, Ch. 1, Table 1-4 and accompanying text, June 2001 (available at <https://www.usccr.gov/pubs/vote2000/main.htm>).

¹² *Texas League of United Latin Citizens v. Whitley*, 2018 WL 3748172 (W.D. Texas) 2019). The secretary of state who attempted to implement this flawed process was ultimately forced to leave office. Alexa Ura, “Texas Secretary of State David Whitley departs as legislative session ends,” *Texas Tribune*, available at <https://www.texastribune.org/2019/05/27/texas-secretary-state-david-whitley-forced-leave-office/> (last visited April 18, 2023).

¹³ *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1840-41 (2018).

were automatically removed from voter rolls.¹³ A closely divided Supreme Court allowed the law to stand.¹⁴ Although the decision did not address whether the law had a discriminatory impact, researchers and advocates found that this law disproportionately removed voters with lower incomes and Black and brown voters.¹⁵ Over one-third of states across the country have similar processes that remove voters for inactivity.¹⁶ Such practices will continue to threaten individuals who cannot make it to the polls to vote in every federal election or who are burdened with other barriers—those who do not get time off work to vote, those who live far from polling stations or do not have transportation, those who do not have childcare, those who do not have the proper ID to vote in certain states, or those who experience other obstacles to voting.¹⁷

Evaluating voter removal laws and access to registration data is a necessary step towards preventing problematic voter removal laws from passing in other states and helping advocates and organizers in states where these problematic laws exist make the case for their correction. As states across the country consider changes to their voting list maintenance laws, this analysis shines a light on problematic practices and procedures across the states. It provides important recommendations for how state lawmakers and election officials can achieve two critical goals: ensuring their registration rolls are accurate and ensuring no eligible voter is prevented from making their voice heard in our democracy due to erroneous or discriminatory voter purges.

¹⁴ In *Husted v. A. Philip Randolph Inst.*, in contradiction to the plain terms of the NVRA prohibiting the removal of voters for “failure to vote,” the Court allowed states to target eligible voters for purges simply because they had not voted frequently enough in the eyes of state officials. *Husted*, 138 S. Ct. at 1846.

¹⁵ See, e.g., Brief for National Association for the Advancement of Colored People and the Ohio State Conference of the NAACP as Amici Curiae Supporting Respondents, 138 S. Ct. 1833 (2018) (No. 16-980) at 17-19, available at <https://advancementproject.org/resources/amicus-brief-filed-husted-v-philip-randolph-institute/>; see also *Husted*, 138 S. Ct. at 1864 (Sotomayor, J., dissenting).

¹⁶ “Removal For Not Voting,” Voting Rights Lab, last updated 5/3/2022, <https://tracker.votingrightslab.org/issues/21VtrLstMntncPrgs?law%3D54=&sa=D&source=docs&ust=1642725528406671&usg=AOvVaw2ZMMzvI0gl6QeO1wT35K8A&law=54>

¹⁷ See Leah Rodriguez, *5 Reasons People in the U.S. Don't Vote*, Global Citizen, Sept. 2, 2020, available at <https://www.globalcitizen.org/en/content/why-people-dont-vote/>

Methodology

This report examines key factors that impact how a state purges voters from the registration rolls and whether such procedures unduly endanger the access of eligible voters. We analyze four factors, summarized below and detailed further in Appendix B, and assign each state a score.¹⁸

- **Removal Practices:** We evaluate a state’s laws and regulations governing removal practices and score the state based on the likelihood that a policy will lead to the improper purge of an eligible voter. This analysis includes routine list maintenance practices, such as removing voters for death or alleged ineligibility, as well as other, more problematic voter purge practices, such as removing voters for inactivity or third-party challenges.
- **Safeguards Against Erroneous Removal:** We evaluate the safeguards a state has in place to protect against disenfranchisement due to improper purges and score the state based on the presence and strength of safeguards to ensure improperly purged voters can still vote.
- **Data Accessibility:** We evaluate the accessibility of a state’s registration data and score the state based on the ability of the public to immediately access free voter registration data in a tabular electronic format.
- **Data Transparency:** We evaluate the transparency of a state’s voter registration data and score the state based on whether the information included in the voter registration file is helpful for identifying an improper purge. This analysis looks at availability of data on race, voter ID number, voter status, status reason code, and voting history.

Each state’s score is calculated out of a possible 100 points. The higher a state’s score in a particular category, the better its policies are—i.e., the less likely they are to result in an eligible voter being purged in error, the more

¹⁸ Further details on the scoring for each state are available in a data appendix on file with the authors.

likely that an eligible voter wrongfully purged will be able to re-register and cast a ballot that counts, and the more likely that researchers and advocates are able to use the voter file to identify and correct erroneous and potentially discriminatory purges.

In analyzing states, we look primarily at the rules established in state statutes, regulations, and other forms of binding, statewide guidance that carry the force of law. These sources provide us with uniform, statewide rules that are open to public scrutiny. It is often the case; however, that state and local election officials have developed their own practices and procedures in the absence of binding legal rules. Because internal practices are susceptible to change and may vary across different state jurisdictions, our scoring is based on the published, uniform legal requirements in each state.

Findings



Our findings, summarized here and described in detail for each state later in this report, show that:

No state is a model for removal practices. Indeed, every state we analyzed employs practices that risk wrongful purges of eligible voters. All states we examined also fall short in at least some respects in providing safeguards to allow wrongfully purged individuals to re-register and vote successfully if they do not discover they were purged until they attempt to vote. In sum, there is significant room for improvement in policies and procedures related to voter list maintenance and safeguards for voters across nearly every state we examined.

A few states—Georgia, North Carolina, and Ohio—scored highly for practices that promote data accessibility and transparency that other states can learn from. But good data hygiene alone is not enough to prevent improper purges; such data accessibility and transparency must be coupled with list maintenance practices and safeguards that ensure eligible voters are not wrongfully removed from the rolls in the first place.

Because the states we analyzed represent significant geographic, demographic, and ideological diversity, there is good reason to expect that our findings are not confined to these ten states but instead are reflective of voting list maintenance policies across the country.

All States Should Improve their Removal Practices

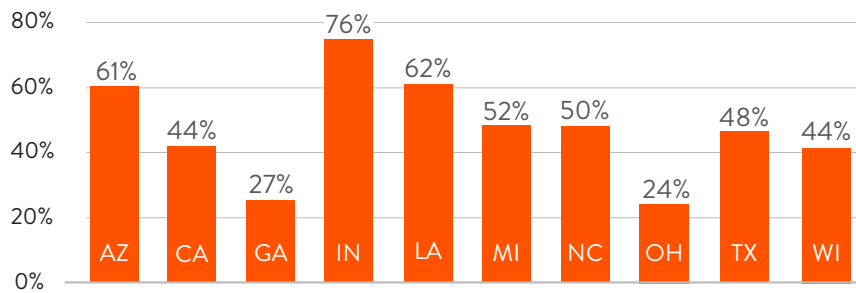
Each of the ten states we studied employs voter list maintenance procedures that can lead to erroneous purges of eligible voters and, as a result, to voter disenfranchisement, particularly for Black and brown communities. As a result, none of the states we analyzed serve as appropriate models for reliable voter removal practices or for informing voters of erroneous removals, and each of these states should make improvements to their removal practices.

On the lowest end, Ohio scored just 24% for removal practices since at nearly every turn, the state makes it hard for voters to stay on the registration rolls, and the totality of Ohio's removal practices—from purging for inactivity to lack of notice to voters removed for alleged felony conviction or adjudication of mental incapacity, to a lack of process for voters to contest their removal, to expansive permissions to challenge a voter's eligibility—make it likely that eligible voters will be improperly purged.

The highest score for removal practices—Indiana, at 76%—still has room for improvement. Indiana scored comparatively high primarily because it does not remove voters for inactivity, does not permit mass voter challenges, and does not give election officials “catch-all” removal authority, and because, additionally, it does not disenfranchise voters based on an adjudication of mental incapacity. However, Indiana's policies are far from ideal. The state has no specified identifying criteria that must be matched before removing voters based on a disqualifying conviction or death, nor is there a clear procedure for these removed voters to contest their removal if it was in error, and Indiana does not require notice to voters or to election officials when a voter's right to vote is restored upon completion of their sentence.

Every other state scored less than 76%—failing grades if states were being scored in school. However, the current regimes for voter list maintenance do not have to be the final story. States can readily improve their rankings on removal practices through new legislation. A good example is California: although its current removal practices resulted in a score of only 44%, legislation enacted by California in 2022, most of which will be effective in January 2024, will raise its score to 62% once it goes into effect.

FIGURE 1
Removal Practices



All States Should Establish Greater Safeguards Against Erroneous Removal

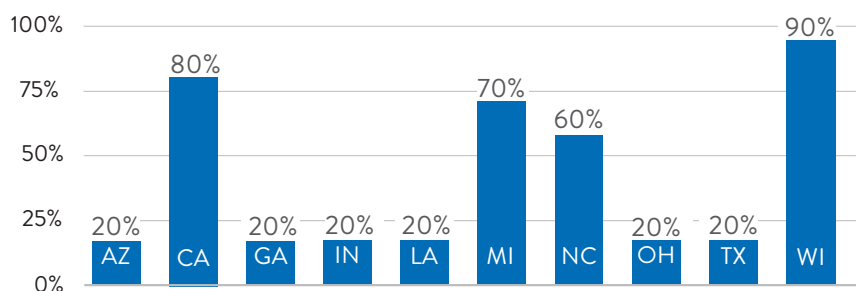
While a few states received relatively high scores for the safeguards they employ to protect improperly purged voters, there is room for improvement across all ten states to ensure that eligible voters erroneously removed from the rolls are able to cast a ballot that counts when they show up to the polls.

More than half the states examined scored just 20% for safeguards because they do not allow same-day voter registration, the most important failsafe for ensuring voters who have erroneously removed can cast a ballot that counts in an election. In these six states—and several others across the country—these voters who have been wrongfully removed from the registration rolls without their knowledge are likely to be disenfranchised when they attempt to vote.

The highest-scoring states in this category all have some form of same-day voter registration, which serves as an important antidote to erroneous voter purges. Wisconsin scored highest because it has same-day registration during both early voting and on Election Day, and it allows same-day voters to cast a regular rather than provisional ballot. Additionally, while it requires a voter who has been wrongfully purged and who therefore has to re-register same-day to show proof of residency beyond what is required of other voters—documentation the voter may not have been aware they needed and therefore may not have—the state does allow clerks to accept electronic proof of residency, e.g., a photo on their phone of one of the forms of proof of residency, making this additional requirement relatively unburdensome. The power of same-day registration to protect purged voters depends on its design, including: (1) offering same-day registration during both early voting and on Election Day, rather than just one or the other; (2) the ability of same-day registrants to cast a regular rather than provisional

ballot, and (3) the requirements for what documentation wrongfully purged voters must present before they are allowed to re-register on the same day as voting. Washington and Vermont—states not evaluated in this report—have model same-day registration policies that meet these criteria.¹⁹ All states we examined have room to improve their policy design on one or more of these factors.

FIGURE 2
Safeguards Against Erroneous Removals



Most States Should Improve Data Accessibility

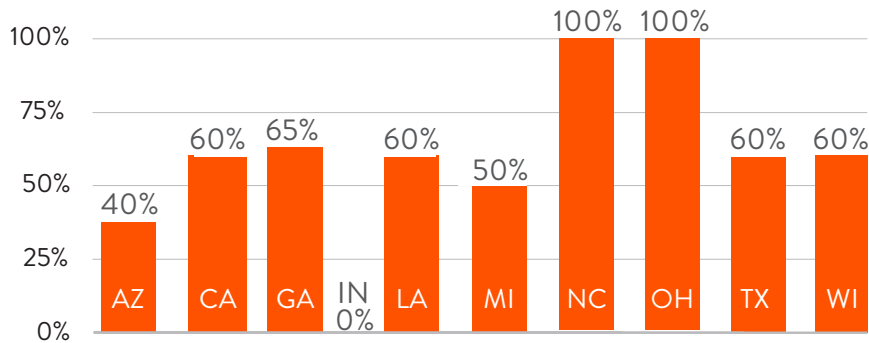
One way to prevent a faulty purge, or to correct it before Election Day, is to allow members of the public to analyze voter registration data. Access to this data is important for multiple reasons: it helps researchers, advocates, and organizers identify gaps in voter registration for certain communities; facilitates the prevention of improper purges before they occur; allows groups to reach out to voters whose records have been purged and urge re-registration; and allows for the study of a purge to see if there was a disparate impact on communities of color, among other reasons. However, rules for requesting and obtaining records to examine voter registration data vary drastically from state to state, and some states make it exceedingly difficult—or impossible—to analyze voter registration data.

When it comes to data accessibility, Indiana scored lowest: 0%. Indiana's complete file is only available to certain election officials; members of the general public have no means of accessing it. Further, there is no timeline by which election officials must respond to requests from the public for even a limited file.

¹⁹ 17 V.S.A. §§ 2144, 2145; Wash. Rev. Code §§ 29A.08.040, 29A.08.140. See also Same-Day Voter Registration, NCSL, available at <https://www.ncsl.org/elections-and-campaigns/same-day-voter-registration>.

By contrast, two states—North Carolina and Ohio—achieved perfect scores, 100%, on data accessibility. In both states, the complete voter file is fully available to the public and can be downloaded for free immediately in an electronic format. All other states have room for improvement on this criterion.

FIGURE 3
Data Accessibility



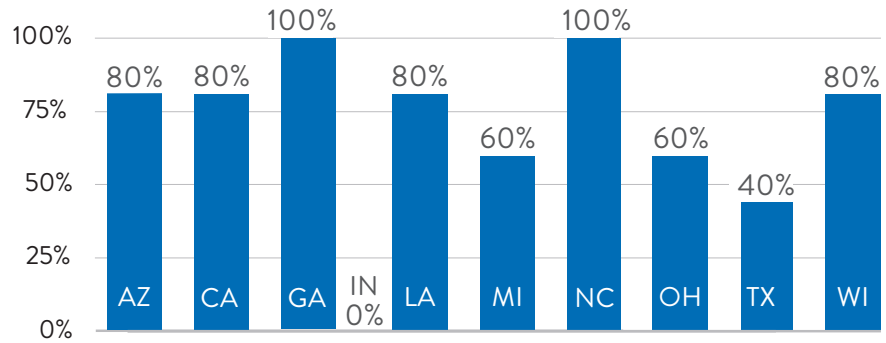
Most States Should Improve Data Transparency

Most states also have work to do in making their data transparent. Again here, Indiana scored lowest—0%—because the publicly available file contains only names, addresses, and election districts and excludes the information necessary to ensure voters are not purged in error. The complete file, available only to a small set of users, does not contain race, voter status, or reason code.

Georgia and North Carolina were the only states to score perfectly for data transparency. In both states, the voter file includes all the fields necessary for advocates to monitor and detect improper, potentially discriminatory voter purges (race, voter ID number, voter status, status reason code, and voting history).

FIGURE 4

Data Transparency



Finally, it is important to read each state's individual scores in the broader context. We analyze states across four criteria because all are essential in preventing improper purges. Strong laws should both prevent improper purges and, in the event an eligible voter is purged, ensure that such voter can re-register and vote. Receiving a high score in one category, then, does not necessarily indicate the state is doing well on list maintenance overall. For example, a high score on data transparency or accessibility, while helpful for advocates in identifying a state's trends, does not automatically translate to prevention of improper purges of eligible voters.

Recommendations

Lawmakers and elections officials can make common-sense improvements to their current removal practices, the safeguards in place to protect eligible voters that have been erroneously removed, and the accessibility and transparency of their registration data. Doing so will help ensure that eligible voters are not wrongfully removed from the rolls before Election Day and that voters who find out at the polls that they have been removed can still vote and make their voices heard.

State Policy Change

State legislatures should amend current removal laws to protect eligible voters against wrongful and discriminatory voter purges and to ensure all eligible voters who have tried to register to vote are able to cast a ballot that counts. Additionally, election officials typically have the authority to adopt policies that create more clear and accurate removal practices, with better notice to voters across their states.

Specifically, states lawmakers and election officials should:

- **Ensure their list maintenance and removal practices do not initiate voter removal based on non-voting (or “inactivity”) and comply with all other requirements of the National Voter Registration Act.**
- **Not allow third parties to challenge the registration eligibility of voters on the registration rolls. If such third-party challenges are permitted, establish safeguards around them, including:**
 - » Requiring that each individual challenge be separately adjudicated, rather than allowing mass challenges by third parties;
 - » Requiring third-party challengers to swear, under penalty of perjury, that they have personal, particularized knowledge of another voter’s ineligibility; put the burden of proof on the challengers rather than the challenged registrant; set a standard of evidence that requires demonstration of a registrant’s ineligibility beyond a reasonable doubt; and allow frivolous challenges to be dismissed without

requiring the challenged voter to appear for a hearing or questioning;
and

- » Prohibiting third-party challenges to voter eligibility based solely on National Change of Address (NCOA) data since states already use this data as part of their routine list maintenance, and because such information does not create personal knowledge of ineligibility by the challenger.
- **Put procedures in place to ensure that the person being removed from the list for suspected death, conviction, adjudication of mental incapacity, non-citizenship is the same person identified as ineligible to vote, including:**
 - » Codifying in statute or regulation strong, explicit identifying criteria, based on reliable data sources, that must be matched before a suspected ineligible voter may be removed; and
 - » Giving all voters adequate notice and a meaningful opportunity to contest removal prior to removal. The process of contesting removals should be clear, straightforward, and publicly explained in multiple languages on state and local election authority websites.
- **Provide adequate safeguards against improper removals, including:**
 - » Offering same-day registration during early voting and on Election Day;
 - » Allowing registrants who have been marked “inactive” or “ineligible” to take advantage of same-day registration and cast regular ballots, with no need to provide additional documentation beyond what is required of all voters; and
 - » Allowing voters who fix their inactive status at the polls to vote using a regular ballot instead of a provisional ballot.
- **Verify voter address through automatic updates and effective communication with the voter, including:**
 - » Automatically updating registrations upon receipt of notice that a person has moved and confirming the update with the voter;
 - » Using clear, hard-to-ignore confirmation mailers when verifying addresses to ensure notice to the voter is effective—for example, design confirmation mailers to help the voter distinguish the mailer from junk mail and to ensure they will clearly understand the need to respond to avoid removal or placement on inactive list;

- » Allowing voters who have moved within the same election jurisdiction but not updated their registration address to change their address and vote at the polling place for their new address when casting a ballot; and
- » Establishing communication with voters through alternative means other than the United States Postal Service, including email/phone where the voter has provided this information.
- **Ensure that election officials have updated and accurate information about which voters have been convicted of a disenfranchising offense, have been adjudicated mentally incapacitated to vote, or have died by:**
 - » Implementing intra-agency data sharing practices that notify election officials when people become ineligible to vote – and when their eligibility is restored, with sufficient information to correctly identify the voter;
 - » Ensuring that the data provided is current and does not include outdated or changed information; and
 - » Providing notice to the election authority associated with a returning citizen's last known address when their voting rights are restored.
- **Inform voters of the rules relating to eligibility and re-registration, including:**
 - » Providing information about re-registration and rights restoration when sending a notice of removal; and
 - » Providing written notice to returning citizens when their voting rights are restored, including instructions on how to register or re-register.
- **Train election officials to maintain the voter registration list in accordance with these best practices and put quality controls in place to ensure these practices are consistently followed.**
- **Require public education and transparency on the state's list maintenance practices, including public releases announcing the time, place, and number of any systematic removals.**

States can also make changes that promote more accessible and transparent voter roll data and in turn ensure that any eligible voter who is wrongfully removed from the rolls is made aware in time to correct the error before it is too late. To do so, states should:

- Create a public database where individuals can immediately download the complete voter file for free in an electronic format. This should adhere to privacy rules to redact personal information (such as a social security number or driver's license number) but should still include the fields necessary to gauge which voters may have been purged improperly (voter or registration ID number, voter status, voter status reason code, race, and voter history).
- Include robust information in the voter file – including race, voter ID number, voter status, status reason code, and voting history – that help identify and prevent improper removals.
- Implement good data management practices, such as uniform codes, including reason/status codes across the state so that counties are not creating ad hoc categories that aren't comparable across the whole state.
- Regularly issue reports on monthly removals, so researchers and advocates can monitor the data for potential erroneous removals and contact eligible voters who may have been removed.

Federal Policy Change

To ensure there are consistent laws across the United States that both facilitate the maintenance of accurate, complete voter registration rolls and ensure no eligible voter is disenfranchised, Congress should also enact federal legislation addressing the many problems associated with current voter purge practices described in this report.

The Freedom to Vote: John R. Lewis Act, which came close to passage in the 117th Congress, would have provided comprehensive protections against improper purges.²⁰ Federal lawmakers must continue to fight to pass comprehensive legislation that addresses the problems that many states have with voter list maintenance and provides protections for eligible voters. However, unless and until there is action on the federal level, state lawmakers across the country should act swiftly to resolve the many issues detailed in this report.

²⁰H.R. 5746 - 117th Cong. (2021-2022) (available at <https://www.congress.gov/bill/117th-congress/house-bill/5746/text#toc-H753E97F3A3ED460E974497979E83F35D>).

What Advocates Can Do

In the absence of action from lawmakers and election officials, advocates have been working to identify wrongful and discriminatory voter purges and to protect eligible voters from disenfranchisement.

Since 2020, Dēmos has convened the Voter Purge Table, a space in which national and state organizations coordinate work and share tools to combat excessive and unlawful voter purges and protect the fundamental right to vote. Through the Voter Purge Table, advocates work together to analyze voter registration data, flag problematic and potentially illegal voter purge activity across the country, and respond in real-time to such potential activity so that eligible voters are not kicked off the registration rolls.

In partnership with Dēmos and others, state and regional organizations like the Southern Coalition for Social Justice are educating the public about the voter list maintenance process²¹—including by shedding light on the potential for discriminatory impact of improper purges like those described in this report²²—and providing tips and tools for combatting such purges and ensuring the rolls are accurate and complete.²³

Additionally, Voting Rights Lab and the Brennan Center are monitoring bills and laws related to voter purges across all 50 states. Advocates can access VRL's searchable database “Voting Rights Tracker”²⁴ and the Brennan Center's voting laws roundups.²⁵

Finally, grassroots groups such as A Little Piece of Light and many others are organizing their communities to be engaged in the democratic process, including by registering voters and supporting their members to re-register, or update their registration, as soon as possible after learning they have been improperly purged.

²¹ “Understanding Voter List Maintenance,” Southern Coalition for Social Justice, <https://southerncoalition.org/resources/understanding-voter-registration-list-maintenance/>

²² “North Carolina Voter List Maintenance: 2023 Update,” Southern Coalition for Social Justice, <https://southerncoalition.org/resources/north-carolina-voter-list-maintenance-2023-update/>.

²³ “Combatting Wrongful Voter Purges: A Toolkit for North Carolina,” Southern Coalition for Social Justice and Dēmos, https://southerncoalition.org/wp-content/uploads/2023/02/voter-purge-2023-02-03_FINALopt.pdf.

²⁴ Voting Rights Lab, <https://tracker.votingrightslab.org/>.

²⁵ Brennan Center for Justice, latest February 2023, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2023>.

Conclusion

In every state we evaluated, eligible voters are at risk of being improperly removed from the voter registration rolls before the next election—an often-overlooked issue with the potential to silence thousands of voters across the country. Although removal practices and safeguards vary from state to state, our analysis of ten states across the political and policy spectrums demonstrates that every state has room for improvement and can take necessary and urgent steps both to establish more clear and uniform procedures for voter list maintenance and to create stronger safeguards to correct improper purges. In the wake of the high-turnout 2020 election, several states have enacted bills restricting access to registration and voting,²⁶ endangering access to the ballot for millions of voters. We must ensure that state voter removal laws do not compound with structural barriers to impede voting in historically disenfranchised communities, including Black and brown voters and voters with low incomes.

In addition to improving removal laws and strengthening safeguards against erroneous removal, states must provide free, timely, and readily accessible voter files to the public, inclusive of all information needed to check a voter's status, assess the impact of a voter registration list purge, and identify discriminatory purge policies. Access to this data can help us identify individuals who are at risk of being purged, help us catch discriminatory purges, and help us identify and contact voters who have been purged, so they can re-register. However, access to robust data alone will not solve the problem voters face when they are kicked off the voter rolls only to find out on Election Day. Access to robust data must be coupled with clear, accurate removal practices and strong safeguards to ensure that eligible voters can exercise their freedom to vote without the fear or risk of being wrongly turned away at the ballot box.

²⁶Voting Rights Lab, *A Tale of Two Democracies* (updated Dec. 2021), available at <https://votingrightslab.org/a-tale-of-two-democracies-how-the-2021-wave-of-state-voting-laws-created-a-new-american-fault-line/>; The State of State Elections: 2022 Mid-year Review (July 2022), available at <https://votingrightslab.org/the-state-of-state-election-law-2022-mid-year-review/>.

Ensuring that every eligible voter—regardless of what state they live in—can participate in an election without danger of discovering they have been improperly kicked off the registration rolls is a vital step towards building an inclusive, multiracial democracy.

Appendix A: Glossary

- **Confirmation notice:** Notification mailing sent to a voter before or after they have been removed from the voter registration rolls.
- **Data accessibility:** The ability of a member of the public to view and analyze a state’s voter registration file.
- **Data transparency:** The extent to which the voter registration file includes data on race, voter ID number, voter status, status reason code, voting history, and whether the voter was sent a confirmation notice
- **Mass challenges (voter caging):** Efforts by private individuals or organizations to remove voters from the registration rolls by questioning their eligibility and demanding that election officials remove the targeted persons from the voter rolls (sometimes also called “caging”).
- **Matching criteria:** Data points used to ensure that individuals’ records listed in one data source are the same as those of persons being removed from voter rolls. Matching criteria can include names (first, last, middle initial, and suffix), date of birth, address, and unique identifying numbers like driver’s licenses or social security numbers (or portions thereof).
- **Provisional ballot:** A ballot that is counted only if election officials verify the voter’s eligibility, which in some cases requires an additional step on the part of the voter, such as presenting proof of identity or address to election officials within a certain time period after voting.
- **Removal for inactivity:** When a voter is purged from the voter registration rolls because they have not voted during a particular period of time prescribed by state law or regulation.
- **Routine list maintenance:** Laws or procedures used to keep voter registration rolls up to date by removing individuals for reasons such as death or moving to a new location.

- **Safeguards against erroneous removal:** Laws or procedures that facilitate voting if an individual's record has been purged, such as same-day voter registration.
- **“Use it or Lose it” policies:** A list maintenance system whereby the process of placing a voter on the “inactive” list is triggered simply because that voter has not voted or had other contact with the election system for some period of time. The period of time varies from state to state. Voters on the “inactive” list may be disenfranchised the next time they try to vote unless they have taken affirmative action to change their status.
- **Voter identification or registration number:** a number in the voter file unique to each voter registration record, which can be used to distinguish between voters who have otherwise similar data (e.g., same name and date of birth). This data point shows up differently in each state voter file, including as “voter reg number,” “registration number,” “voter ID,” “SOS voter ID,” “VUID,” etc.
- **Voter purge:** The removal of registered voters from the voter registration rolls, resulting in cancellation of their eligibility to vote.
- **Voter registration roll:** The official list of currently registered voters maintained by a state or locality, which is used to check voters' eligibility when they arrive to vote.
- **Voter status:** A designation assigned to a voter by an elections office for the purpose of identifying their eligibility to vote and whether the individual must follow additional steps in order to vote in a particular election. Examples include “active” (typically, persons deemed eligible to vote in the current election); “inactive” (typically, someone who has not voted in recent elections but remains eligible to vote under certain conditions); or “removed” (typically, a previously eligible voter who has been marked as ineligible because of a move to a new address, a felony conviction, death, or other disqualifying status).

Appendix B: Scoring Rubrics

Table 1: Removal Practices

| | Removal for Felony Conviction | Removal for Death | Removal for Citizenship Status | Removal for Mental Incapacity | Other Factors | |
|--|---|---|---|---|------------------------------------|--|
| Matching Criteria | 0 = no criteria listed in state law 2 = state law indicates which criteria must be provided or compared 4 = state law indicates which criteria must match | 0 = no criteria listed in state law 2 = state law indicates which criteria must be provided or compared 4 = state law indicates which criteria must match | 0 = no criteria listed in state law 2 = state law indicates which criteria must be provided or compared 4 = state law indicates which criteria must match | 0 = no criteria listed in state law 2 = state law indicates which criteria must be provided or compared 4 = state law indicates which criteria must match | Removal for Inactivity | 0 = state law authorizes removal or address confirmation process to begin after 4 or fewer years of inactivity 5 = state law authorizes removal or address confirmation process to begin after more than 4 years of inactivity 20 = state law does not remove voters or send address confirmations solely for inactivity |
| Notice of Removal | 0 = no notice required 2 = notice required after cancellation 4 = notice required before cancellation | 0 = no notice required 2 = notice required after cancellation 4 = notice required before cancellation | 0 = no notice required 2 = notice required after cancellation 4 = notice required before cancellation | 0 = no notice required 2 = notice required after cancellation 4 = notice required before cancellation | Catch-all Removal Authority | 0 = state law authorizes election officials to remove any ineligible voter, apart from specifically identified removal reasons 4 = state law allows removal only for specifically identified by statute or regulation |
| Procedures to Contest | 0 = not clear 4 = clear | 0 = not clear 4 = clear | 0 = not clear 4 = clear | 0 = not clear 4 = clear | Caging / Mass Challenges | 0 = state law permits third parties to challenge the qualifications of registered voters on a mass basis 10 = state law permits third parties to challenge the qualifications of registered voters on a mass basis, but it can only be done by filing a court action 20 = state law does not permit third parties to challenge the qualifications of registered voters on a mass basis |
| Notice of Restoration to Voter | 0 = no notice required 1 = notice provided about restoration rules generally 2 = notice required when eligibility restored | n/a | n/a | 0 = no notice required 1 = notice provided about restoration rules generally 2 = notice required when eligibility restored | Total # = 100% | |
| Notice of Restoration to Elec. Official | 0 = no notice required 2 = notice required | n/a | n/a | 0 = no notice required 2 = notice required | | |
| | Total Possible Points = 16 | Total Possible Points = 12 | Total Possible Points = 12 | Total Possible Points = 16 | | |

Table 2: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---|
| <p>Scope of Same-Day Registration (SDR)</p> | <p>0 = no SDR</p> <p>20 = SDR during early voting or on Election Day, but not both</p> <p>30 = SDR during both early voting and on Election Day, but only at certain designated locations (e.g.- a clerk’s office)</p> <p>40 = SDR during both early voting and on Election Day</p> |
| <p>SDR Identification Requirements</p> | <p>0 = same-day registrants must present documentation of identity or residency above and beyond what is normally required to vote in person</p> <p>20 = same-day registrants must present only the documentation of identity or residency required of non-same day registrations</p> |
| <p>Regular or Provisional Ballot for SDR Voter</p> | <p>0 = same-day registrants must cast provisional ballot</p> <p>20 = same-day registrants may cast regular ballot</p> |
| <p>Regular or Provisional Ballot for Correcting Inactive Status</p> | <p>0 = voter placed on inactive list based on suspected change of address must cast provisional ballot</p> <p>20 = voter placed on inactive list based on suspected change of address may cast regular ballot by affirming that they continue to reside at the same address</p> |
| <p>Total</p> | <p>#/100 = %</p> |

Table 3: Data Accessibility

| Indicator of Accessibility | |
|---|--|
| Complete File Publicly Available | <p>0 = complete file not publicly available</p> <p>20 = complete voter file is publicly available and can be downloaded immediately for free</p> |
| Who Can Request File | <p>0 = limitations on who can request the file</p> <p>10 = limitations on who can request, but they seem to be permissive enough that most interested parties are likely to be able to access the file with enough effort</p> <p>20 = anyone can request the file</p> |
| Cost | <p>0 = complete voter file costs \$500 or more</p> <p>5 = complete voter file costs \$101 - \$500</p> <p>10 = complete voter file costs \$100 or less</p> <p>20 = complete voter file is free, even if it must be requested</p> |
| Timeline | <p>0 = no set response time required by state law</p> <p>20 = state law requires response to records requests within a set timeline (usually 14 days)</p> |
| Format | <p>0 = voter file does not come in an electronic and tabular format</p> <p>20 = voter file comes in an electronic and tabular format</p> |
| Total | #/100 = % |

Table 4: Data Transparency

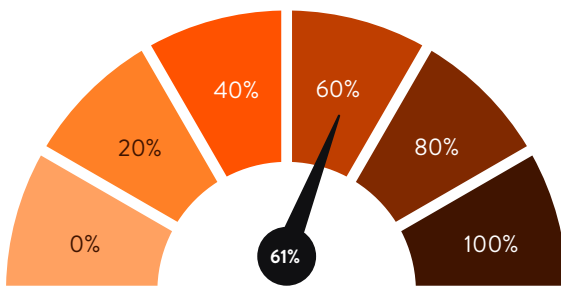
| Indicator of Transparency | |
|----------------------------------|--|
| Race | 0 = no field indicating a voter's race 20 = field indicating a voter's race |
| Voter ID Number | 0 = no field indicating a voter's ID number 20 = field indicating a voter's ID number |
| Voter Status | 0 = no field indicating whether a voter is "active," "inactive," or "removed" 20 = field indicating whether a voter is "active," "inactive," or "removed" |
| Status Reason Code | 0 = no field indicating why a voter was removed or moved to inactive list 20 = field indicating why a voter was removed or moved to inactive list |
| Date Last Voted | 0 = no field indicating date of last election voter participated in 20 = field indicating date of last election voter participated in |
| Total | #/100 = % |

Appendix C: State by State Analyses

Arizona

Removal Practices

FIGURE 5
Arizona Removal Practices



Arizona is currently in the midst of litigation over 2022 legislation which, if allowed to go into effect, would implement draconian purge practices – including a requirement that election officials investigate the citizenship status of Arizonans already on the voting rolls, no matter how long they have been registered, and potentially demand documentary proof of their citizenship if they want to remain on the voting rolls.²⁷ Even without this law, which is not yet being implemented because it has been challenged in multiple lawsuits, Arizona scored only 61% for its existing removal practices.

On the positive side, Arizona does not have a “use it or lose it” policy of initiating a removal process if a voter has not voted in one or more recent elections.²⁸ In most cases, the state employs clear matching criteria for cancellation of a voter registration²⁹ and requires notice of cancellation,³⁰ and

²⁷AZ HB 2492, available at <https://www.azleg.gov/legtext/55leg/2R/bills/HB2492H.pdf>.

²⁸Ariz. Rev. Stat. § 16-166(A), (E). See also Arizona Secretary of State, 2019 Elections Procedures Manual, at pgs. 35-40, available at https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf. Note that Arizona statute requires that the elections procedures manual be updated biennially, but an updated version was not approved in 2021. As of the writing of this report, the 2019 manual remains the law. The manual will be updated ahead of the 2024 elections, however, and possibly in ways that weaken Arizona’s protections against improper registration removals. See the state of play section below for more detail.

²⁹Arizona Secretary of State, 2019 Elections Procedures Manual, at pgs. 33-35, available at https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf will be updated ahead of the 2024 elections, however, and possibly in ways that weaken Arizona’s protections against improper registration removals. See the state of play section below for more detail.

³⁰See Arizona Secretary of State, 2019 Elections Procedures Manual, at pgs. 36-37, available at https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf; see also Ariz. Rev. Stat. § 16-165

it does not expressly authorize large-scale third-party challenges to voter registrations.³¹

However, Arizona’s removal practices remain flawed in important respects. Arizona law does not establish clear matching criteria for the removal of voters based on citizenship status, does not generally require notice to the voter if their registration is being canceled for lack of documentary proof of citizenship,³² does not require notice if a voter’s registration is canceled based on information indicating the voter has died,³³ and does not clearly require that voters or election officials be informed when a voter’s eligibility is restored after a felony conviction or a change in a previous judgment of mental incapacity.³⁴ Arizona’s removal procedures also do not provide any guidance on how to contest an erroneous removal.³⁵

Table 5: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|-------------------|-------|--------------------|-----------------------------------|-------------------------------------|
| Matching Criteria | 4 | 4 | 0 | 4 | Inactivity 20 |
| Notice of Removal | 2 | 0 | 0 | 2 | Catch-all Removal Authority 4 |
| Procedures to Contest | 0 | 0 | 0 | 0 | Caging / Mass Challenges 20 |
| Notice of Restoration to Voter | 1 | n/a | n/a | 0 | Total 61/100 = 61% |
| Notice of Restoration to Elec. Official | 0 | n/a | n/a | 0 | |

³¹See Ariz. Rev. Stat, Title 16, Ch. 1, Art. 5

³²See AZ HB 2492, available at <https://www.azleg.gov/legtext/55leg/2R/bills/HB2492H.pdf> (enacted in 2022). Arizona provides notice of removal for non-citizenship only in the narrow circumstance where the removal is based on the voter having self-identified as a non-citizen on a jury form. See Arizona Secretary of State, 2019 Elections Procedures Manual, at 36-37, available at https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf.

³³Ariz. Rev. Stat. § 16-165(A)(2), (D).

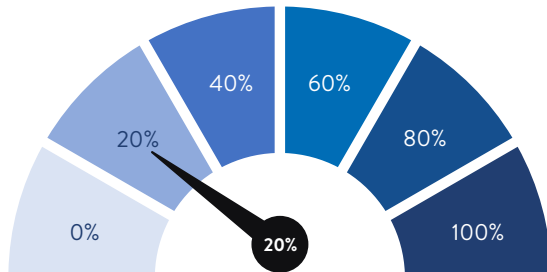
³⁴Ariz. Rev. Stat. § 16-165 (omits any mention of notification of restoration of eligibility). Moreover, although not a purge provision, a bill enacted in 2021 requires voters to be removed from the permanent mail-in ballot list if they have not returned a mail-in ballot in the last two general elections. See SB 1485. Persons so removed may still vote in person, however. Id.

³⁵Ariz. Rev. § 16-165 (omits any mention of procedures to contest removal); Arizona Secretary of State, 2019 Elections Procedures Manual, at 33-35, available at https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf (same).

Safeguards Against Erroneous Removal

FIGURE 6

Arizona Safeguards from Removal



Arizona scored only 20% for its safeguards against erroneous removal. The state does not offer same-day registration in any form—whether during early voting or on Election Day.³⁶ Arizona’s only safeguard is to allow voters who have been marked inactive based on a suspected change of address to cast a regular rather than provisional ballot after affirming that they continue to reside at the same address.³⁷

Table 6: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 0 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 0 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 20/100 = 20% |

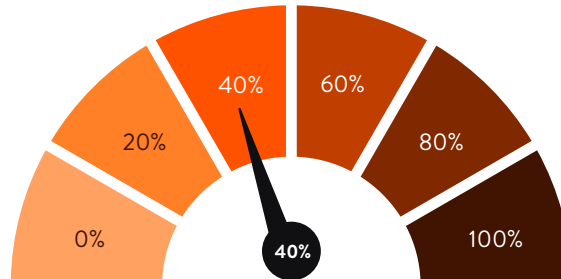
³⁶ See Ariz. Rev. Stat. § 16-120 (establishing voter registration deadline 29 days before an election); 2022 AZ HB 2237 (banning adoption of same-day registration).

³⁷ Ariz. Rev. Stat. § 16-583.

Data Accessibility

FIGURE 7

Arizona Data Accessibility



Arizona scored 40% for data accessibility. While anyone can request the Arizona voter registration list, and the state provides it in a user-friendly electronic format,³⁸ it is still somewhat expensive for members of the general public.³⁹ Before Arizona was sued by voting-rights groups, the cost of the full electronic file for plaintiffs had been \$50,000.⁴⁰ The settlement ensures that the public can request the electronic file for a much lower cost of about \$500.⁴¹ Additionally, the file takes longer to arrive than most other states.⁴²

Table 7: Data Accessibility

| Indicator of Accessibility | |
|----------------------------|---------------------|
| Complete File Available | 0 |
| Who Can Request File | 20 |
| Cost | 0 |
| Timeline | 0 |
| Format | 20 |
| Total | 40/100 = 40% |

³⁸Ariz. Rev. Stat. § 16-168 (E).

³⁹Ariz. Rev. Stat. § 16-168(E)(1)-(5).

⁴⁰Rebekah L. Sanders, "Who's been kicked off Maricopa County voter rolls? Lawsuit resolution may tell," The Arizona Republic, March 22, 2017, available at <https://www.azcentral.com/story/news/local/phoenix/2017/03/22/records-office-settlement-project-vote-could-show-voters-kicked-off-rolls/99462142/>

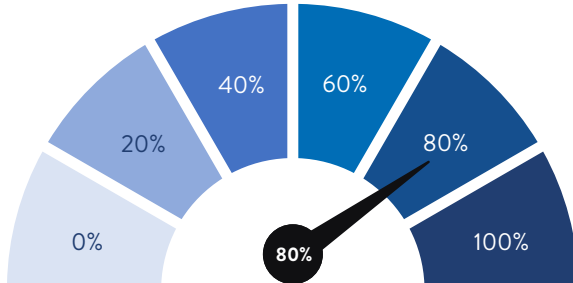
⁴¹Rob O'Dell, "Arizona settles lawsuit to make voter-registration data more accessible, affordable," The Arizona Republic, June 29, 2017, available at <https://www.azcentral.com/story/news/politics/arizona/2017/06/29/arizona-settles-lawsuit-voter-registration-data-lower-cost-project-vote/437629001/>

⁴²Ariz. Rev. Stat. § 16-168(E).

Data Transparency

FIGURE 8

Arizona Data Transparency



Arizona scored 80% for data transparency since the data file contains voter ID number, voter status, status reason code, and voting history, but not race, as Arizona does not require registrants to provide their race or ethnicity.⁴³

Table 8: Data Transparency

| Indicator of Transparency | |
|---------------------------|---------------------|
| Race | 0 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 20 |
| Date Last Voted | 20 |
| Total | 80/100 = 80% |

Current Political Context

As mentioned above, in 2022, Arizona enacted a new law with onerous provisions affecting voting—although not limited to voter purge procedures. House Bill 2492 prohibits voters from voting in presidential elections and from voting by mail if they have not provided documentary proof of citizenship when registering. It further requires the state attorney general to investigate the citizenship of all registered voters who did not provide such documentary proof at the time they originally registered, to cancel the registrations of and prosecute any non-citizens identified, and to report findings to the legislature.⁴⁴ Before HB 2492, Arizona had already barred new registrants from voting in state and local elections unless they provided doc-

⁴³ See, e.g., Maricopa County Recorder “Public Record Request for Voter Information” available at <https://recorder.maricopa.gov/pdf/voterpublicdatarecordrequest.pdf>.

⁴⁴ AZ HB 2492, available at <https://www.azleg.gov/legtext/55leg/2R/bills/HB2492H.pdf>.

umentary proof of citizenship when registering,⁴⁵ fostering confusion and disenfranchisement.⁴⁶

Millions of American citizens do not have easy access to documentary proof of citizenship.⁴⁷ Tens of thousands of citizens in Arizona would potentially be disenfranchised by the new law.⁴⁸ In July 2022, several parties, including the U.S. Department of Justice, filed suit against Arizona because of HB 2492’s violations of the National Voter Registration Act.⁴⁹ The NVRA exclusively governs requirements for registration in federal elections when using the federal voter registration form, and the federal form has never required documentary proof of citizenship but instead has required affirmation of citizenship under penalty of perjury. Because of the ongoing litigation, these requirements are not currently in effect.

Lawmakers in Arizona are also actively hostile to same-day registration. Even though the practice does not exist in the state, in 2022, the legislature enacted a bill to ban same-day registration, which the governor signed in May 2022.⁵⁰ While such legislation has no practical effect—after all, SDR has never existed in the state—it injects more fear into elections administration by making it a felony for administrators to provide such services at a time when administrators already feel under siege from unprecedented and baseless attacks on the integrity of election administration.⁵¹

Finally, Arizona’s score may worsen—and protections for voters against improper removal may be weakened—ahead of the 2024 election. Much of list maintenance in Arizona is governed by the state’s Elections Procedures Manual. State law mandates that the manual be updated every two years, but the 2021 version submitted by the secretary of state was not approved by the attorney general, forcing the state to rely on the 2019 version during the 2022 midterm elections. The 2019 version is the basis for this evaluation, and it includes several significant improvements over its predecessor—the 2014 manual—that account for Arizona’s relatively high scores for its current removal practices among the states we evaluate.

⁴⁵Arizona Secretary of State, Proof of Citizenship Requirements, available at <https://azsos.gov/elections/voters/register-vote-update-voter-information/registration-requirements/proof-citizenship> (last visited October 29, 2022).

⁴⁶Jen Fifield, “Up to 1,000 Arizona voters were mistakenly sent ballots with only federal races”, Arizona Mirror, October 20, 2022, available at <https://www.azmirror.com/2022/10/20/up-to-1000-arizona-voters-were-mistakenly-sent-ballots-with-only-federal-races-heres-why-and-whats-next/> (last visited October 29, 2022).

⁴⁷Brennan Center for Justice, Citizens Without Proof, Nov. 28, 2006, available at <https://www.brennancenter.org/our-work/research-reports/citizens-without-proof>

⁴⁸See Ian Vandewalker, “The Effects of Requiring Documentary Proof of Citizenship”, Brennan Center for Justice, July 19, 2017, available at <https://www.brennancenter.org/our-work/research-reports/effects-requiring-documentary-proof-citizenship>

⁴⁹The lawsuits have all been consolidated under the caption *Mi Familia Vota v. Fontes*, No. CV 22-00509-PHX-SRB (D. Ariz.).

⁵⁰AZ HB 2237, available at <https://apps.azleg.gov/BillStatus/BillOverview/76692>.

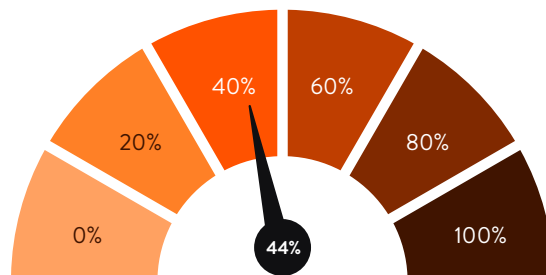
⁵¹Linda So, Peter Eisler, and Jason Szep, “Kill them’: Arizona election workers face midterm threats”, Reuters, November 6, 2022, available at <https://www.reuters.com/world/us/kill-them-arizona-election-workers-face-midterm-threats-2022-11-06/>.

Arizona's Elections Procedures Manual is slated for update ahead of the 2024 elections. While we do not yet know the content of the 2023 manual, it will be an update of the 2014 version rather than the 2019 version. It is important that improvements made between 2014 and 2019—which strengthened Arizona's list maintenance procedures and promoted uniformity across Arizona counties—are retained and expanded.

California

Removal Practices

FIGURE 9
California Removal Practices



California scored 44% for its removal practices. On the positive side, California does not authorize a “use it or lose it” practice; voters cannot be targeted for removal from the rolls solely because they failed to vote for a certain period of time.⁵² State law provides guidance on criteria that must match when evaluating potential removals of persons with felony convictions.⁵³ It also provides notice to election officials and voters when an individual’s eligibility to vote is restored after a felony conviction or previous determination of mental incapacity.⁵⁴ California also limits mass voter challenges, allowing private parties to challenge others’ voter registrations only by filing a court action, which provides a significant disincentive to overly broad or discriminatory mass challenges.⁵⁵ This kind of disincentive is unique among the states we examined.

⁵² Prior to 2020, Cal. Elec. Code § 2224 gave counties discretion to initiate a confirmation and removal process based on a registrant’s failure to vote, although this was rarely done in practice. Legislation enacted in 2020, SB 504 (2019-2020), safeguarded the removal process by taking away any authority to initiate removal based solely on non-voting, available at <https://legiscan.com/CA/text/AB504/2019>.

⁵³ Cal. Elec. Code § 2212. Section 2212 was amended in 2022 by SB 504 (2021-2022) (available at <https://legiscan.com/CA/text/SB504/2021>) to set forth specific data points which the department of corrections must provide to the secretary of state for those convicted of felonies, to match with voter rolls, and to require notice to the election officials and voter when an individual’s voting rights have been restored. The 2022 amendment came in the wake of litigation in Los Angeles County over erroneous removals based on flawed data on felony status. See *All of Us or None v. Logan*, Case No, BC705656, Notice of Ruling on Defendants’ Motion for Summary Judgment and Scheduling Order, November 4, 2020 (Cal. Superior Ct.).

⁵⁴ Cal. Elec. Code §§ 2212, 2209, 2210.

⁵⁵ Cal. Elec. Code § 2213.

However, neither statute nor regulation specifies which criteria must match when canceling a registration due to suspected lack of citizenship,⁵⁶ adjudication of mental incapacity,⁵⁷ or death.⁵⁸ California currently also lacks notice procedures when canceling voter registrations based on information that the voter is deceased or is imprisoned for a felony,⁵⁹ nor does state law detail clear procedures to contest one’s removal from the registration rolls. California also provides open-ended discretion to election officials to bring proceedings to cancel a voter’s registration if deemed to be illegal.⁶⁰

California’s score for removal practices will improve substantially in January 2024, when new legislation enacted in September 2022 goes into effect. The new legislation, Assembly Bill 2841, strengthens the matching criteria that must be met before canceling a voter’s registration based on death or adjudication of mental incapacity. AB 2841 also creates stronger requirements for notifying voters before they are removed from the voting rolls.⁶¹ Indeed, California’s score on removals will rise to 62% once the new legislation goes into effect.

Table 9: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|-------------------|-------|--------------------|-----------------------------------|-------------------------------------|
| Matching Criteria | 4 | 2 | 0 | 0 | Inactivity 20 |
| Notice of Removal | 0 | 0 | 0 | 0 | Catch-all Removal Authority 0 |
| Procedures to Contest | 0 | 0 | 0 | 0 | Caging / Mass Challenges 10 |
| Notice of Restoration to Voter | 2 | n/a | n/a | 2 | Total 44/100 = 44% |
| Notice of Restoration to Elec. Official | 2 | n/a | n/a | 2 | |

⁵⁶ Cal. Elec. Code §§ 2201(a)(8) (providing catch-all discretion to county election officials to cancel registrations upon proof of ineligibility; “proof” is undefined).

⁵⁷ Cal. Elec. Code §§ 2208 (directing court declarations of mental incompetence to be forwarded to the secretary of state for voter registration cancellation without specific requirement to match criteria before records are purged).

⁵⁸ Cal. Elec. Code §§ 2205, 2206 (setting forth data points that registrars of births and deaths must provide to counties and the secretary of state, but not mandating how many of the data points must match); see also Cal. Code Regs. tit. 2, § 19079.

⁵⁹ Cal. Elec. Code § 2205, 2206 (establishing removal requirements for death but omitting any requirement of notice to the voter); Cal. Elec. Code § 2212 (providing for removal of individuals based on felony conviction but omitting any requirement of notice to the voter prior to cancellation). California’s current lack of pre-removal notice requirements for these removals is confirmed by the legislation enacted in 2022, AB 2841 (available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2841) which will establish a notice requirement for these removals effective in January 2024.

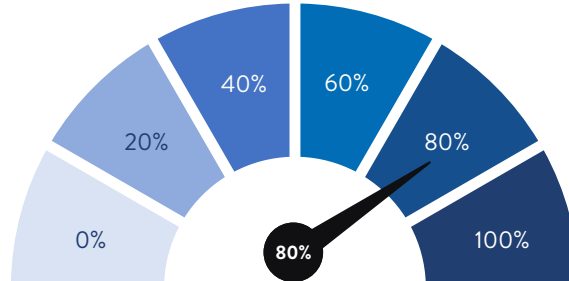
⁶⁰ Cal. Elec. Code §§ 2201(a)(8).

⁶¹ AB 2841, sec. 2(c)(1)(amending Cal. Elec. Code 2201).

Safeguards Against Erroneous Removal

FIGURE 10

California Safeguards from Removal



California scored 80% for the safeguards it has put in place to protect voters who learn that their registrations have been canceled or marked inactive only upon attempting to vote in an election. California has robust same-day voter registration. Voters can register during early voting and on Election Day,⁶² and same-day registrants can use the last four digits of their Social Security number (or other state-given identifiers) to register,⁶³ so they do not need to bring special documentation to the polls.⁶⁴ Additionally, voters on the inactive list who appear at their polling place may vote a regular ballot rather than a provisional ballot.⁶⁵ However, California generally requires same-day registrants to cast provisional rather than regular ballots.⁶⁶

Table 10: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 40 |
| SDR Identification Requirements | 20 |
| Regular or Provisional Ballot for SDR Voter | 0 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 80/100 = 80% |

⁶² Cal. Elec. Code § 2170.

⁶³ 2 Cal. Code Reg. § 20022 (allowing conditional voter registration registrants to use the same registration form as other registrants); Cal. Elec. Code §§ 2150(a)(6), 2170(c) (allowing last four digits of SSN, or other state-given identifier, for voter registration affidavit).

⁶⁴ In addition, California requires election officials to attempt to retrieve the voter's ID number from the DMV database if it was omitted from the form. 2 Cal. Code Reg § 19074.

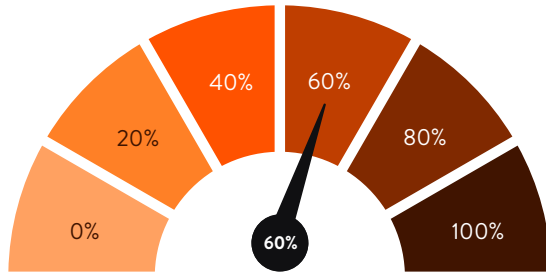
⁶⁵ Cal. Elec. Code §§ 14217, 14310 (regarding circumstances under which a voter gets a provisional ballot).

⁶⁶ Cal. Elec. Code § 2170(e). However, a voter registering "conditionally" may cast a regular ballot if the elections official, using the statewide voter registration database, can verify that the registrant is eligible, hasn't already voted in the election, and isn't in a roster for another county. Cal. Elec. Code § 2170(f).

Data Accessibility

FIGURE 11

California Data Accessibility



California scored 60% for data accessibility. The state responded within ten days of our request, and the voter file is electronic. It is somewhat unclear whether the complete file is available to any member of the public that wants it. State code limits access to the file to candidates for office, initiative or referendum committees, or to individuals for election, scholarly, journalistic, political, or governmental purposes, at the discretion of the Secretary of State.⁶⁷ However, “political” is defined fairly broadly in regulations,⁶⁸ so it seems that many interested parties could access it, although someone interested in accessing the voter file must jump through some hoops to document “political purpose.”⁶⁹ Finally, the file is not free, though, at \$100, it is significantly cheaper, and therefore more accessible, than the costly files of other states we analyzed.⁷⁰

Table 11: Data Accessibility

| Indicator of Accessibility | |
|----------------------------------|---------------------|
| Complete File Publicly Available | 0 |
| Who Can Request File | 10 |
| Cost | 10 |
| Timeline | 20 |
| Format | 20 |
| Total | 60/100 = 60% |

⁶⁷ Cal. Elec. Code § 2194(a)(3).

⁶⁸ 2 Cal. Code Reg 19003(a)(4) "Political: for any person to communicate with voters to influence public opinion related to political or election activities. The content of such communications shall include, but shall not be limited to: news and opinions of candidates, elections, education related to political matters, political party developments, ballot measures, initiatives, referendum positions, and related political matters."

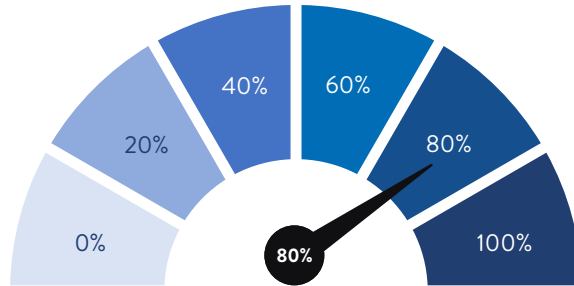
⁶⁹ 2 Cal. Code Reg 19008.

⁷⁰ 2 Cal. Code Reg 19006(a) caps the fees at \$100.

Data Transparency

FIGURE 12

California Data Transparency



California scored 80% for data transparency, as the state voter file includes Voter ID number, voter status, status reason code, and voting history but does not include race, as California does not require registrants to provide their race or ethnicity.⁷¹

Table 12: Data Transparency

| Indicator of Transparency | |
|---------------------------|---------------------|
| Race | 0 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 20 |
| Date Last Voted | 20 |
| Total | 80/100 = 80% |

Current Political Context

As mentioned, a bill enacted in September 2022, but not effective until January 1, 2024, will require notice to voters before canceling registrations for death, imprisonment, adjudication of mental incapacity, or being in inactive status for four years. It will also overhaul the process for identifying and removing voters based on adjudication of mental incapacity.⁷² California has also, in recent years, improved its processes by implementing practices for ensuring that removals for felony convictions are based on

⁷¹ See, e.g., Santa Clara County, “Voter Data Specifications,” available at <https://sccvote.sccgov.org/sites/g/files/exjcpb1106/files/Voter%20Data%20Specifications%20-Revised%202019.pdf>

⁷² CA AB 2841, available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2841 (last visited October 16, 2022).

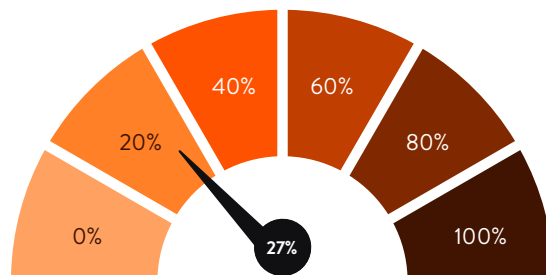
reliable information and accompanied by notice.⁷³ Thus, California appears to be on a positive trajectory with respect to changes in its voter purge practices, even if it still has more to do to make some of its practices more fully voter-friendly.

⁷³ See *supra* n.2.

Georgia

Removal Practices

FIGURE 13
Georgia Removal Practices



Georgia scored 27% for its removal practices. Georgia has codified in statute some data points that must be transmitted to election officials for removals for felony conviction, adjudication of mental incapacity, death, and determination of non-citizenship,⁷⁴ but state law does not require that specific criteria must match for removal. Voters are entitled to some form of notice for each type of removal, but in most cases, that notice comes only after the voter has been removed from the rolls, and there is no opportunity to contest.⁷⁵ The exception is removals for felony convictions; a person flagged for removal on those grounds must be notified before being removed,⁷⁶ and has 30 days to request a hearing before the board of registrars to contest their removal.⁷⁷ And Georgia law does not require notice to the individual or to election officials when someone has their eligibility to register and vote restored after having previously been disenfranchised because of a felony conviction or adjudication of mental incapacity.⁷⁸

⁷⁴ Ga. Code §§ 21-2-231(a)-(d), 21-2-231(a.1). For removal based on felony conviction, these data points include dates of birth and social security numbers, but for removal based on death, citizenship status, or adjudication of mental incapacity, the only specific data points enumerated are age and address.

⁷⁵ Id.

⁷⁶ Ga. Code §§ 21-2-231(c)

⁷⁷ Ga. Code §§ 21-2-231(c)(2)

⁷⁸ Id. at (c)(1),(e),(e.1)

Further, Georgia employs a “use it or lose it” system whereby the process of placing a voter on the “inactive” list is triggered simply because that voter has not voted or had other contact with the election system for five years.⁷⁹ Georgia law also grants any voter the power to challenge an unlimited number of other voters’ registrations—if they live in the same county--and grants county boards of registrars the ability to examine and remove registration records at any time if they believe a voter is unqualified under a basic standard of removal.⁸⁰ The breadth of Georgia’s challenge practices has led to litigation alleging that some groups and individuals are misusing such challenges to intimidate qualified voters and deter them from voting.⁸¹

Table 13: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|-------------------|-------|--------------------|-----------------------------------|---------------------------------|
| Matching Criteria | 2 | 2 | 2 | 2 | Inactivity 5 |
| Notice of Removal | 4 | 2 | 2 | 2 | Catch-all Removal Authority 0 |
| Procedures to Contest | 4 | 0 | 0 | 0 | Caging / Mass Challenges 0 |
| Notice of Restoration to Voter | 0 | n/a | n/a | 0 | Total 27/100 = 27% |
| Notice of Restoration to Elec. Official | 0 | n/a | n/a | 0 | |

⁷⁹ Ga. Code §§ 21-2-234(a)-(c), 21-2-235.

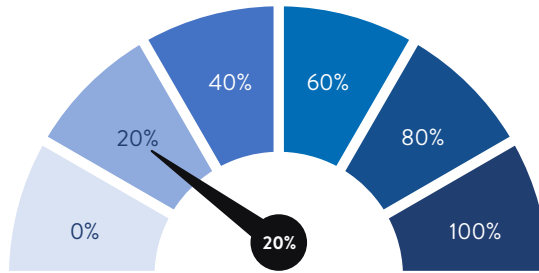
⁸⁰ Ga. Code §§ 21-2-228, 21-2-230.

⁸¹ Fair Fight, Inc., et al. v True the Vote, et al., No. 2:20-cv-00302-SCJ (N.D. Ga).

Safeguards Against Erroneous Removal

FIGURE 14

Georgia Safeguards from Removal



Georgia scored only 20% for safeguards to protect voters who do not learn that their registrations have been canceled or marked inactive until they attempt to vote at election time. The state does allow voters who have been marked inactive based on a suspected change of address⁸² to cast a regular (as opposed to a provisional) ballot if they affirm that they continue to reside at the same address. However, Georgia does not offer same-day registration during early voting or on Election Day, the most important safeguard for ensuring eligible Georgians can cast a ballot that will count if they have been erroneously purged.⁸³

Table 14: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 0 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 0 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 20/100 = 20% |

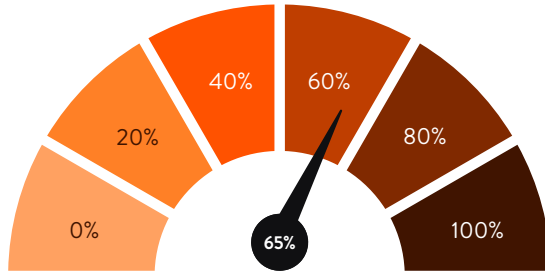
⁸² Ga. Code § 21-2-235(c)(1).

⁸³ Ga. Code § 21-2-224 (providing that registration application must generally be submitted by fifth Monday before the election).

Data Accessibility

FIGURE 15

Georgia Data Accessibility



Georgia scored 65% for data accessibility, as a partial version of the file can be requested by anyone, comes within 1-2 weeks of ordering, and is in an electronic format.⁸⁴ However, the whole file costs \$250.⁸⁵ Georgia does provide access to review public data on registrants (minus much personal identifying information) at no cost.⁸⁶

Table 15: Data Accessibility

| Indicator of Accessibility | |
|----------------------------|---------------------|
| Complete File Available | 0 |
| Who Can Request File | 20 |
| Cost | 5 |
| Timeline | 20 |
| Format | 20 |
| Total | 65/100 = 65% |

⁸⁴ Ga. Code § 21-2-225; see also Georgia Secretary of State, “Voter List,” available at <https://georgiasecretaryofstate.net/collections/voter-list-1>

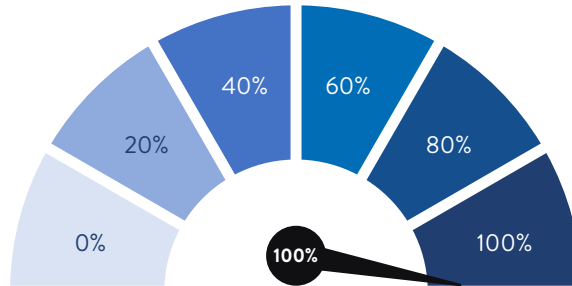
⁸⁵ Georgia Secretary of State, “Statewide Voter List,” available at <https://georgiasecretaryofstate.net/collections/voter-list-1/products/state-wide-voter-list>

⁸⁶ Ga. Code § 21-2-225(b).

Data Transparency

FIGURE 16

Georgia Data Transparency



Georgia scored 100% for data transparency because all scored fields are included in the file for purchase.⁸⁷ The only other state to include all the fields is North Carolina. These files help advocates identify potential purges based on a voter's status and identify discriminatory purges by analyzing the voter's status, reason code, and race. For example, advocates can use this data to analyze if a purge for inactivity has disparately impacted Black voters in a specific jurisdiction.

Table 16: Data Transparency

| Indicator of Transparency | |
|---------------------------|-----------------------|
| Race | 20 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 20 |
| Date Last Voted | 20 |
| Total | 100/100 = 100% |

Current Political Context

In 2021, the Georgia legislature enacted an anti-voter law (Senate Bill 202⁸⁸) that, among other harmful provisions, expressly provides that there is no limit on the number of voters whose eligibility can be challenged by a single voter, and that requires registrars to hold hearings on these challenges

⁸⁷Georgia Secretary of State, "Order Voter Registration Lists and Files," available at <https://sos.ga.gov/page/order-voter-registration-lists-and-files>.

⁸⁸GA SB 202, amending Ga. Code § 21-2-229.

within ten days of the challenge being filed. SB 202 made even more explicit that it was possible to raise limitless challenges after over 360,000 voter challenges were filed in the leadup to the January 2021 Senate runoff election.⁸⁹ The law also authorized the state boards of election to sanction county registrars for failure to comply with the new voter registration challenge procedures. Georgia also enacted a new law which, among other things, expanded the authority of the Georgia Bureau of Investigation to investigate alleged election fraud and election crimes.⁹⁰

Thus, despite Georgia's high score for data transparency, the changes encouraging mass voter challenges are likely to mean the removal of many eligible voters before advocates can even use data in the voter file to detect or prevent purges. Fair Fight Action estimates that 92,000 voter challenges were filed in 2022 across the state.⁹¹ As with many provisions in the law, the changes to list maintenance may disproportionately impact voters of color.⁹² Unfortunately, a bill introduced in the 2023 session, SB 221, could make mass voter challenges even more dangerous by allowing registrars to treat the appearance of a person's name in a USPS change-of-address database, by itself, as proof to uphold a challenge.⁹³

Several other bills that would have changed Georgia's list maintenance processes failed in 2022. These included bills that would have increased the frequency with which elections officials must check for deceased voters, a bill that would allow for elections officials to be fired for failure to perform sufficient list maintenance,⁹⁴ and a bill that would allow for additional efforts to remove voters presumed to have moved.⁹⁵ On the flip side, bills to improve Georgia's voter list maintenance also failed in the 2022 session. For example, a bill introduced in February 2022 that would have eliminated Georgia's "use it or lose it" practice failed in the House.⁹⁶

⁸⁹ Mark Neisse, "Eligibility of 364,000 Georgia voters challenged before Senate runoff," *The Atlanta Journal-Constitution* December 22, 2020.

⁹⁰ GA SB 441 (2021), available at <https://legiscan.com/GA/text/SB441/2021>.

⁹¹ Jane C. Timm, "Fraud hunters challenged 92,000 voter registrations last year," NBC News, February 27, 2023 (noting that analysis of Cobb County challenges showed disproportionate impact on Black voters and young voters), available at <https://www.nbcnews.com/politics/elections/fraud-hunters-challenged-92k-georgia-voter-registrations-2022-rcna71668>.

⁹² *Id.*

⁹³ Available at <https://legiscan.com/GA/text/SB221/2023>. See also Jane C. Timm, "Georgia Republicans want to make it easier to challenge voters' eligibility," NBC News, February 28, 2023.

⁹⁴ "GA Assembly Bill 537," Voting Rights Lab, last updated Jul 19, 2021, <https://tracker.votingrightslab.org/pending/search/GA2021H537>. See also https://legiscan.com/GA/bill/HB537/2021?utm_campaign=rss&guid=4Vx0v0hUjCOjI5eEO37Hb

⁹⁵ "GA Assembly Bill 472," Voting Rights Lab, last updated Feb 18, 2021, <https://tracker.votingrightslab.org/pending/search/GA2021H472>. See also <https://legiscan.com/GA/bill/HB472/2021>.

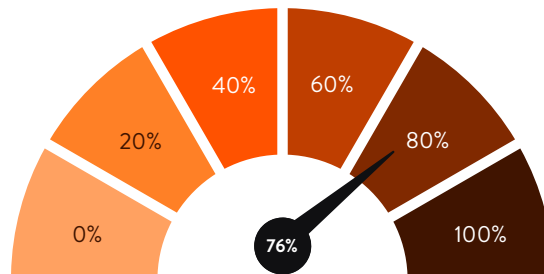
⁹⁶ GA HB 280; available at <https://legiscan.com/GA/bill/HB280/2021>.

Indiana

Removal Practices

FIGURE 17

Indiana Removal Practices



Indiana scored 76% for its removal practices, the highest of any state we analyzed. Indiana's relatively strong notice procedures and high score among the states we analyzed are, in part, the result of several years of litigation over previous faulty procedures that violated the National Voter Registration Act.⁹⁷

On the positive side, Indiana does not initiate a removal process solely based on failure to vote in a certain number of elections. Instead, in every odd-numbered year, the registrar checks on eligibility by sending a non-forwardable mailing to all registered voters.⁹⁸ If the postal service returns the mailing as undeliverable, the registrar does not immediately move the voter to the inactive list but instead sends the voter a second, forwardable confirmation notice.⁹⁹ Such voters are moved to the inactive list only if they fail to confirm their address in response to the second, forwardable notice.¹⁰⁰ Using forwardable notices is preferable because such notices are far more likely to actually make it to the voter, who is then alerted that they may need to update their voter registration.

In addition, Indiana does not use alleged mental incapacity as a basis to deny the right to vote.¹⁰¹ State law clearly enumerates the reasons for which counties may initiate removal and does not grant election officials the authority to remove voters for other, unspecified reasons; i.e.; election

⁹⁷ See *infra*, Current Political Context.

⁹⁸ Ind. Code § 3-7-38.2-16.1

⁹⁹ Ind. Code § 3-7-38.2-17

¹⁰⁰ Ind. Code § 3-7-38.2-17. Indiana does move voters to the inactive list if the registrar receives direct information from the U.S. Postal Service or other reliable sources that the voter no longer resides at the listed address, but only if the voter does not respond to a confirmation mailing, or the Postal Service returns the notice as undeliverable. Ind. Code § 3-7-38.2-2(d)-(i). Once on the inactive list, voters may continue to vote, and will be removed only if they fail to vote during the next two federal general elections. Ind. Code § 3-7-38.2-2.2(j), (k).

¹⁰¹ Ind. Code §§ 12-26-2-8, 12-27-2-3. See also "State Laws Affecting the Voting Rights of People with Mental Disabilities," Bazelon Center for Mental Health Law, 2016, available at http://www.bazelon.org/wp-content/uploads/2017/11/2016_State-Laws-Affecting-Voting-Rights-of-PWD.pdf (last visited April 20, 2023).

officials do not have “catch-all” removal authority.¹⁰² Indiana does not allow for mass challenges to voters’ registrations outside of an individual voter’s precinct. However, Indiana does allow for individual challenges at the voter’s precinct by a third party or a member of the precinct election board.¹⁰³ The state does have some restrictions on what types of challenges can be made¹⁰⁴ and voters may sign an affidavit and vote using a provisional ballot if their qualifications are challenged.¹⁰⁵

On the other hand, Indiana lacks notice procedures when a voter is removed from the voter list because the voter is believed dead, and state law only indicates which criteria must be considered but does not require that specific data points match.¹⁰⁶ Such a notice provides an important way for voters to learn if they have been erroneously removed. Indiana law also lacks specific procedures for contesting wrongful removals. Moreover, the statutory provision on removing voters based on felony convictions does not include any matching criteria that must be met before removal.¹⁰⁷ The state does send notices of disenfranchisement to all those whose registration records are purged due to such convictions, thereby potentially alerting those whose records may have been erroneously removed; however, this notice is only sent after the voter that has been deemed ineligible is already purged.¹⁰⁸

Table 17: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status | Adjudication of Mental Incapacity ¹⁰⁹ | Other Reasons for Removal |
|---|-------------------|-------|--------------------|--|-------------------------------------|
| Matching Criteria | 0 | 2 | 4 | 4 | Inactivity 20 |
| Notice of Removal | 2 | 0 | 4 | 4 | Catch-all Removal Authority 4 |
| Procedures to Contest | 0 | 0 | 4 | 4 | Caging / Mass Challenges 20 |
| Notice of Restoration to Voter | 0 | n/a | n/a | 2 | Total 76/100 = 76% |
| Notice of Restoration to Elec. Official | 0 | n/a | n/a | 2 | |

¹⁰² Ind. Code § 3-7-26.3-11; Ind. Code § 3-7-38.2-2(d)-(h); Indiana Election Division, 2020 Indiana Voter Registration Guidebook 41-44 (2020).

¹⁰³ Ind. Code § 3-11-8-19 through 8-21

¹⁰⁴ Ind. Code § 3-5-4.5-2 and 3

¹⁰⁵ Ind. Code § 3-11-8-23.5 and 27.5

¹⁰⁶ See Ind. Code § 3-7-45-2.1, 3-7-45-3 (on registration removal for death). But note that if a county registration officer determines that information regarding a deceased voter is in error the office “may decline” to remove the voter, or may reinstate a voter incorrectly removed. Ind. Code § 3-7-45-7. The law does not specify how such a determination is made.

¹⁰⁷ See Ind. Code §§ 3-7-46-1 through 46-9.

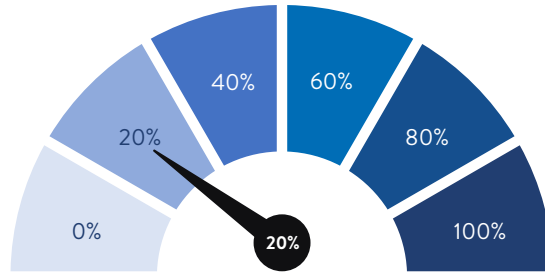
¹⁰⁸ Ind. Code §§ 3-7-45-3, 3-7-46-8, 3-7-46-9.

¹⁰⁹ State law does not disenfranchise voters based on a judgment of mental incapacity to vote, so we have given Indiana full points.

Safeguards Against Erroneous Removal

FIGURE 18

Indiana Safeguards from Removal



Indiana scored only 20% for its safeguards to protect voters who learn that their registrations have been canceled or marked inactive only when arriving in person to vote. The chief reason Indiana scored poorly is that it does not offer same-day registration during early voting or on Election Day, which would allow an eligible voter whose registration was canceled to re-register and vote on site.¹¹⁰ The state received points for its policy of allowing voters who have been marked inactive based on a suspected change of address to cast a regular ballot by affirming that they continue to reside at the same address.¹¹¹

Table 18: Safeguards Against Erroneous Removal

| Safeguard | Score |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 0 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 0 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 20/100 = 20% |

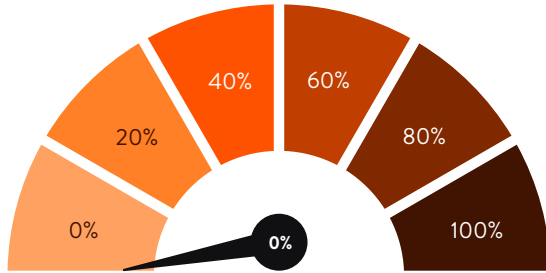
¹¹⁰See Ind. Code § 3-7-13-11 (setting registration deadline at close of business on 29th day prior to election); see also National Conference of State Legislatures, Same Day Registration, at <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx> (last visited April 20, 2023).

¹¹¹Ind. Code § 3-7-48-5.

Data Accessibility

FIGURE 19

Indiana Data Accessibility



Indiana also scored 0% for data accessibility. Although the voter file is technically free to the public, only a restricted version is available, containing only names, addresses, and the voters' election district.¹¹² The complete file is available only to political parties, independent candidates, a member of the media for publication in a news broadcast or newspaper, the chief justice of the supreme court and clerks of U.S. district courts for administering the jury management system, the speaker and minority leader of the house of representatives, the president pro tempore and the minority leader of the senate.¹¹³ Political parties, candidates, and members of the media must pay an annual subscription fee of \$5,000 for this file.¹¹⁴ Indiana does provide the restricted voter file as an electronic text file, but the data are so limited it is essentially useless to researchers and advocates monitoring improper purges.¹¹⁵

Table 19: Data Accessibility

| Indicator of Accessibility | |
|----------------------------------|-------------------|
| Complete File Publicly Available | 0 |
| Who Can Request File | 0 |
| Cost | 0 |
| Timeline | 0 |
| Format | 0 |
| Total | 0/100 = 0% |

¹¹² Ind. Code §§ 3-7-26.4-4 and 26.4-8.

¹¹³ Ind. Code § 3-7-26.4-6. Individual counties may also provide their own electronic voter files to members of the public, but are entitled to require a fee for this service. Ind. Code § 3-7-26-6(c). Counties may impose the same restrictions on the contents of the file as the state itself does. See St. Joseph County, Indiana, Election Board Resolution No. 2017-01, available at <http://sjcindiana.com/DocumentCenter/View/11573/Resolution-on-Access-to-Electronic-Data?bidId=> (last visited April 20, 2023).

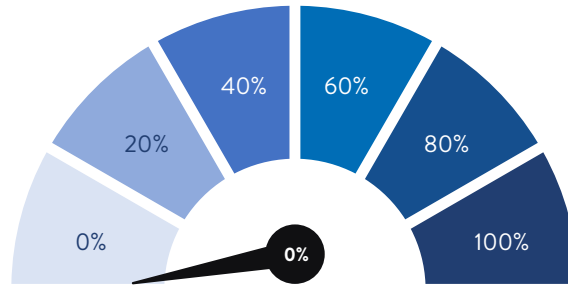
¹¹⁴ Ind. Code 3-7-26.4-12.

¹¹⁵ Ind. Code § 3-7-26.4-6. The electronic file must be provided within 5 days of the request, but, as mentioned, it is available only to the specific entities listed above.

Data Transparency

FIGURE 20

Indiana Data Transparency



Indiana scored 0% for data transparency, the lowest of any state we analyze. The publicly available file contains only names, addresses and election district and excludes basic information like Voter ID number, voter status, voting history, and all other data researchers and advocates need to monitor for improper removals.¹¹⁶ Although a limited number of entities can access a file with some of the data points we evaluate, most members of the public cannot access that private file.¹¹⁷

Table 20: Data Transparency

| Indicator of Transparency | |
|---------------------------|-------------------|
| Race | 0 |
| Voter ID Number | 0 |
| Voter Status | 0 |
| Status Reason Code | 0 |
| Date Last Voted | 0 |
| Total | 0/100 = 0% |

Current Political Context

Indiana had extensive litigation over its purge practices from 2017-2021. A law enacted in 2017 adopted what the Seventh Circuit termed “an aggressive new strategy” which allowed Indiana immediately to remove a voter from the rolls based on information received from a third-party database

¹¹⁶ Ind. Code §§ 3-7-26.4-4 and 26.4-8.

¹¹⁷ Ind. Code §§ 3-7-26.4-6 and 26.4-8.

indicating that the voter might be registered in another state.¹¹⁸ Although the third-party database, known as Crosscheck, was notoriously inaccurate, the 2017 law would have allowed Indiana automatically to remove a voter from the rolls if the voter was identified as a database “match,” without any advance notice to the voter.¹¹⁹ The Seventh Circuit enjoined this practice for violating the NVRA. Indiana’s replacement law, adopted in 2020, did not entirely cure this problem, and was again enjoined by the federal courts as a violation of the NVRA.¹²⁰

A bill was introduced in the legislature in January 2022 that would have allowed same-day registration, but it did not advance out of committee.¹²¹ The sponsor has re-introduced the bill in the 2023 session.¹²² A bill that has already advanced in the legislature in 2023 would increase the period of disenfranchisement of persons convicted of a voting fraud felony to 10 years after completion of the sentence, and require removal of such persons from the voting rolls.¹²³

Indiana also elected a new Secretary of State in 2022 who has questioned the validity of the 2020 presidential election, calling it “flawed” and a “scam that was perpetrated upon the citizens.”¹²⁴ He has not yet pursued specific voting legislation at the time of this report.¹²⁵

¹¹⁸ Common Cause of Indiana v. Lawson, 937 F.3d 944, 946 (7th Cir. 2019).

¹¹⁹ Id. at 948-949.

¹²⁰ League of Women Voters of Indiana v. Sullivan, 5 F.4 th 715 (7th Cir. 2021). Demos, along with several partner organizations, served as counsel to Common Cause Indiana in these consolidated lawsuits.

¹²¹ IN HB 1364 (2022), available at <https://iga.in.gov/legislative/2022/bills/house/1364#document-838ce297> (last visited April 20, 2023).

¹²² IN HB 1427 (2023), available at <https://iga.in.gov/legislative/2023/bills/house/1427#document-fd8e59a1> (last visited April 20, 2023).

¹²³ IN HB 1116 (2023), available at <https://iga.in.gov/legislative/2023/bills/house/1116#document-100899e1> (last visited April 20, 2023).

¹²⁴ Diego Morales, OPINION: “Holli Sullivan Dodges on Election Sanctity: I Will Lead,” Hoosier State Today, April 20, 2022, <https://hoosierstatetoday.com/stories/621591355-opinion-holli-sullivan-dodges-on-election-sanctity-i-will-lead>.

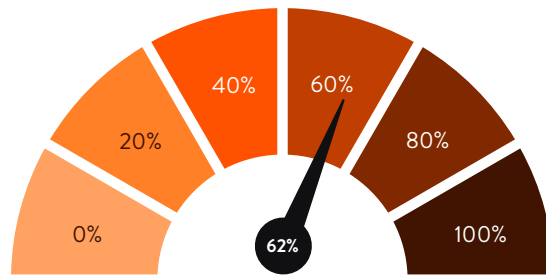
¹²⁵ Zachary Roth, Five election deniers who are controlling state voting systems, NC Policy Watch, The Pulse, February 19, 2023, <https://pulse.ncpolicywatch.org/2023/02/19/five-election-deniers-who-are-controlling-state-voting-systems/#sthash.o467VcdK.dpbs>.

Louisiana

Removal Practices

FIGURE 21

Louisiana Removal Practices



Louisiana scored 62% for removal practices. On the positive side, Louisiana does not have a “use it or lose it” policy of initiating a removal process based on a voter’s non-participation in one or more elections, though there is legislation currently moving that could change that,¹²⁶ and state law does not expressly authorize third parties to challenge the validity of other voters’ registrations.¹²⁷ Notice is required when parish registrars cancel voters’ registrations due to disenfranchising convictions¹²⁸ or adjudication of mental incapacity,¹²⁹ or under their catch-all removal authority (which would include cancellations for non-citizenship).¹³⁰ For disenfranchising convictions¹³¹ and the death of a voter,¹³² state law identifies data points that must be transferred to election officials to compare voting records and facilitate proper removal, although the data points are significantly more detailed for deaths than for felony convictions.¹³³

¹²⁶ Grounds for removal are set forth in La. Rev. Stat. §§ 18:176, 18:192, 18:193, and do not include a non-voting trigger. On May 16, 2023, the Louisiana House passed HB 646, a “use it or lose it” policy, by a two-thirds majority. If enacted, the bill would become effective on March 31, 2024. See House Bill 646 of the 2023 Regular Session, available at <https://www.legis.la.gov/legis/BillInfo.aspx?s=23rs&b=HB646&sbi=y>.

¹²⁷ Under La. Rev. Stat § 18:193, the authority to challenge a voter’s registration prior to an election is limited to parish registrars. Louisiana does, however, allow private citizens to challenge another voter’s eligibility at the polling place. La. Rev. Stat. § 18:565.

¹²⁸ La. Rev. Stat. § 18:176(A).

¹²⁹ La. Rev. Stat. § 18:176(B).

¹³⁰ La. Rev. Stat. § 18:193(G).

¹³¹ La. Rev. Stat. §§ 18:171(B), (C); 18:171.1

¹³² La. Rev. Stat. §§ 18:173(C)(1).

¹³³ Compare La. Rev. Stat. § 18:173(C)(1) (covering removals for death) with La. Rev. Stat. § 18: 171(A), 171.1(A)(2) (covering removals for felony conviction).

However, voters whose registrations have been canceled or suspended due to felony convictions¹³⁴ or a judgment of mental incapacity¹³⁵ are not statutorily entitled to notice when their eligibility to register and vote has been restored, nor are election officials notified regarding such voters' renewed eligibility. Voters whose registrations are canceled based on a perceived match with a death record are not guaranteed notice of the cancellation,¹³⁶ and state law does not specify any identifying criteria that must match to justify removals based on a finding of mental incapacity or citizenship status.¹³⁷ Louisiana's removal procedures do not include a process for voters who were improperly removed due to purported death or alleged mental incapacity to contest their removals.¹³⁸ Parish registrars also have catch-all authority to cancel voters' registrations if they have "reason to believe" that a registration record does not belong to a qualified voter.¹³⁹

Table 21: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status ¹⁴⁰ | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|-------------------|-------|-----------------------------------|-----------------------------------|-------------------------------------|
| Matching Criteria | 2 | 2 | 0 | 0 | Inactivity 20 |
| Notice of Removal | 4 | 0 | 4 | 2 | Catch-all Removal Authority 0 |
| Procedures to Contest | 4 | 0 | 4 | 0 | Caging / Mass Challenges 20 |
| Notice of Restoration to Voter | 0 | n/a | n/a | 0 | Total 62/100 = 62% |
| Notice of Restoration to Elec. Official | 0 | n/a | n/a | 0 | |

¹³⁴ See La. Rev. Stat. §§ 18:171(B), (C); 18:171.1; 18:176(A).

¹³⁵ See La. Rev. Stat. §§ 18:176(B); La. Civ. Code art. 397.

¹³⁶ See La. Rev. Stat. §§ 18:173; 18:176(C).

¹³⁷ La. Rev. Stat. Ann. § 18:172, 18:176(B)

¹³⁸ See id. and §§ 18:176(B); La. Civ. Code art. 397.

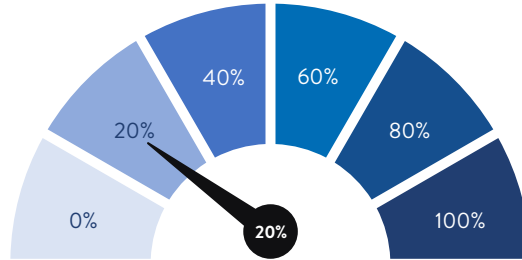
¹³⁹ La. Rev. Stat. §§ 18:176(A), 193(A). "Reason to believe" is not specifically defined.

¹⁴⁰ In 2016, the Louisiana legislature made a positive, long-overdue step in repealing a 142-year-old law that required naturalized citizens to show documentary proof of citizenship before they could register to vote, a step not required of any other potential registrants. Although not directly related to voter purges, this shows that there are a variety of steps states can and should take to make registering and voting more accessible to all their eligible citizens, in addition to protecting against improper purges. Frances Kai-Hwa Wang, "Louisiana Repeals 142-Year-Old Law, Makes Voting Easier for Naturalized Citizens," NBC News, June 2, 2016, <https://www.nbcnews.com/news/asian-america/louisiana-repeals-142-year-old-law-makes-voting-easier-naturalized-n585001>.

Safeguards Against Erroneous Removal

FIGURE 22

Louisiana Safeguards from Removal



Louisiana scored 20% for its safeguards to protect voters who only learn that their registrations have been canceled or marked inactive once they attempt to vote in an election. The state allows voters who have been marked inactive based on a suspected change of address to cast a regular ballot by affirming that they continue to reside at the same address.¹⁴¹ Critically, though, the state does not offer same-day registration during early voting or on Election Day, which would allow an eligible voter whose registration was erroneously canceled to re-register and vote on-site.¹⁴²

Table 22: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 0 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 0 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 20/100 = 20% |

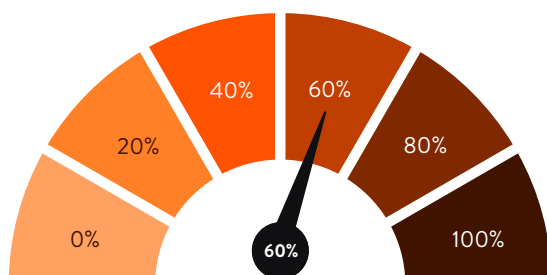
¹⁴¹ La. Rev. Stat. § 18:196(B)(1).

¹⁴² La. Rev. Stat. § 18:135 (providing that registration closes 30 days before an election).

Data Accessibility

FIGURE 23

Louisiana Data Accessibility



Louisiana scored 60% for data accessibility. Louisiana allows a member of the public to inspect the voter file for free at the registrar's office,¹⁴³ but an electronic download can cost up to \$5,000.¹⁴⁴ The file can be purchased by anyone,¹⁴⁵ is downloadable immediately once purchased, and can be converted to excel or other electronic formats.¹⁴⁶

Table 23: Data Accessibility

| Indicator of Accessibility | |
|----------------------------|---------------------|
| Complete File Available | 0 |
| Who Can Request File | 20 |
| Cost | 0 |
| Timeline | 20 |
| Format | 20 |
| Total | 60/100 = 60% |

¹⁴³ La. Rev. Stat. § 18:154.

¹⁴⁴ Louisiana Secretary of State "Voter List Charges and Other Information" available at <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/VoterListChargesAndInfo.pdf>

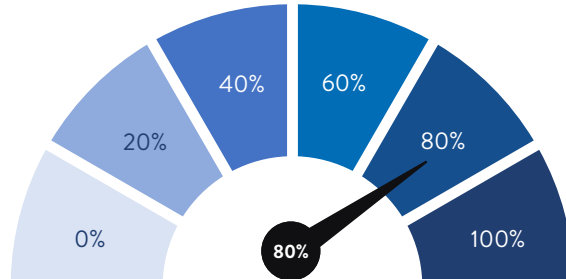
¹⁴⁵ There does not appear to be any state statute addressing who can request the voter file. The Secretary of State's website includes information on purchasing the voter file under the tab for candidates and for "researchers." See Louisiana Secretary of State, Browse by Audience, available at <https://www.sos.la.gov/ElectionsAndVoting/BrowseByAudience/Pages/default.aspx>.

¹⁴⁶ Conversation between Demos and Louisiana Secretary of State's office, April 3, 2023. See also Louisiana Secretary of State, Commercial Requests Record Format For Text File Voter Lists, available at <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/RecordFormatSheet.pdf>.

Data Transparency

FIGURE 24

Louisiana Data Transparency



Louisiana scored 80% for data transparency. The file includes race, voter ID number (called registration number in the Louisiana file), voter status, and voting history, but it does not include voter status reason codes.¹⁴⁷

Table 24: Data Transparency

| Indicator of Transparency | |
|---------------------------|---------------------|
| Race | 20 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 0 |
| Date Last Voted | 20 |
| Total | 80/100 = 80% |

Current Political Context

For the past two legislative sessions, the Louisiana legislature has approved bills to adopt a new “use it lose it” list maintenance practice, which would require the Department of State to initiate a removal process for registered voters who have not voted or engaged in other voting-related activities during a specified period. As explained above, under existing state law, failure to vote alone currently does not trigger a registration confirmation process that can lead to removal. Governor John Bel Edwards, a democrat,

¹⁴⁷ Louisiana Secretary of State “Commercial Requests Record Format for Text File Voter Lists” available at <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/RecordFormatSheet.pdf>

vetoed the “use it or lose it” bills.¹⁴⁸ On May 16, 2023, the Louisiana House passed a similar “use it or lose it” bill by a two-thirds vote. If enacted, the bill would become effective on March 31, 2024.

Additionally, in 2023, Louisiana will hold elections for the state legislature and statewide offices such as governor. Governor Edwards is term limited and cannot run for re-election. A shift in the governorship coupled with a veto-proof Republican in the state legislature could lead to this or other forms of vote suppression becoming law in Louisiana.¹⁴⁹

¹⁴⁸ See Veto of House Bill 35 of the 2022 Regular Session, June 17, 2022, available at <https://legis.la.gov/archive/22RS/veto/hb35v.pdf>.

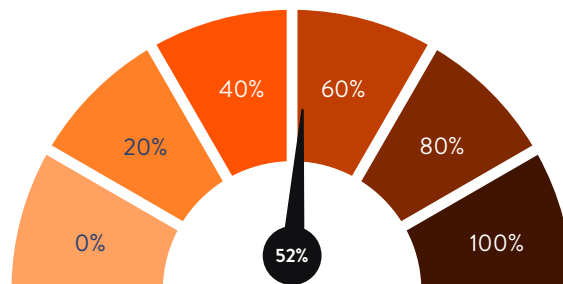
¹⁴⁹ Geoffrey Skelley, Yes, 2023 is an Election Year. Here are the races to watch, 538, January 25, 2023, available at <https://fivethirtyeight.com/features/yes-2023-is-an-election-year-here-are-the-races-to-watch/>

Michigan

Removal Practices

FIGURE 25

Michigan Removal Practices



Michigan scored 52% for its removal practices. Michigan does not have a “use it or lose it” policy whereby the failure to vote triggers a removal process. Instead, like other states that do not purge for failing to vote, Michigan places voters in an “inactive voter” status if they do not vote for six consecutive years or if the voter is sent a notice based on reliable information that they no longer reside at the address at which they were registered.¹⁵⁰ However, voters marked “inactive” for not voting are not required to return a confirmation notice to remain eligible.¹⁵¹

Additionally, while Michiganders incarcerated for a crime are not allowed to vote while they are incarcerated, the state does not remove them from the registration rolls during that time, and their voting rights are automatically restored upon their release, so persons who are again eligible to vote post-incarceration do not have to re-register.¹⁵² Michigan does not disen-

¹⁵⁰ Mich. Comp. Laws § 168.509r(6). The purpose of the “inactive” designation is to allow clerks to disregard inactive voters when drawing precincts, which, in most circumstances, are limited in size to 2,999 voters. Election Officials’ Manual, Michigan Bureau of Elections, Chapter 2, Updated November 2019, p 20, available at https://www.michigan.gov/sos/-/media/Project/Websites/sos/01mcalpine/IL_Voter_Registration.pdf?rev=ec740a2054d8432ba2864b8af7d45133&hash=5041CC134AF6B0695B9A80D5E2FCFD16.

¹⁵¹ Mich. Comp. Laws §§ 168.509r(7), 509bb. However, if a voter fails to respond to a confirmation that was mailed based on reliable information that the voter has moved to a different city or township, the voter will be removed from the rolls if the voter fails to vote during a period covered by the next two general elections. Mich. Comp. Laws § 168.509aa(3)(c)(i). We do not consider this a “use it or lose it” process because voters are not required to respond to a confirmation notice solely because they failed to vote, but instead only when a clerk has information from the U.S. Postal Service or other reliable information that the voter has moved. Mich. Comp. Laws 168.509aa(1).

¹⁵² Mich. Comp. Laws § 168.758b. See also Secretary of State website, FAQs, Elections and Voting, Can Michigan residents in jail or prison still vote? <https://www.michigan.gov/sos/faqs/elections-and-campaign-finance/elections-and-voting> (last visited February 18, 2023).

franchise voters based on grounds of alleged mental incapacity.¹⁵³

For removals based on death, Michigan's practices are mixed. Although the state does dictate what information county clerks must provide to election officials when notifying them of deaths,¹⁵⁴ Michigan law does not spell out a process for giving notice or for correcting erroneous removals.¹⁵⁵

In addition, the state provides election officials with "catch-all" authority for removals, authorizing election officials to summarily remove voters upon suspicion that the voter's name is in the registration record because of illegality or fraud, without requiring the kind of voter notice applicable to other bases for removal.¹⁵⁶ Voters targeted under these procedures are notified only after removal and do not have the opportunity to contest the removal in advance.¹⁵⁷ If the clerk does not remove the voter's registration record but instead marks them as "challenged," the challenged voter must sign an oath as to qualification when appearing to vote.¹⁵⁸

Finally, any registered voter may challenge the registration of another voter, although this must be done by signing an affidavit. Such an affidavit automatically requires the challenged voter to appear at a hearing on their eligibility unless the challenged voter submits their own affidavit explaining the grounds of their eligibility.¹⁵⁹ The voter may have their registration canceled or be immediately removed from the rolls if they fail to submit such an affidavit or attend the hearing.¹⁶⁰ The law does, however, make it a misdemeanor for a person who challenges a voter's registration "indiscriminately and without good cause or for the purpose of harassment."¹⁶¹

¹⁵³ While the Michigan constitution has provisions authorizing the legislature to impose competency requirements for voter eligibility (Mich. Const. art. II, § 2), no such laws exist. See also "State Laws Affecting the Voting Rights of People with Mental Disabilities," Bazelon Center for Mental Health Law, 2016, available at http://www.bazelon.org/wp-content/uploads/2017/11/2016_State-Laws-Affecting-Voting-Rights-of-PWD.pdf.

¹⁵⁴ Mich. Comp. Laws §§ 168.509o(4), 168.510.

¹⁵⁵ Mich. Comp. Laws § 168.510.

¹⁵⁶ Mich. Comp. Laws § 168.521.

¹⁵⁷ Id.

¹⁵⁸ Id.

¹⁵⁹ Mich. Comp. Laws § 168.512.

¹⁶⁰ Id.

¹⁶¹ Id.

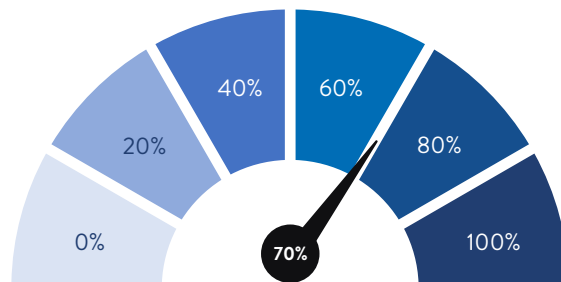
Table 25: Removal Practices

| Reason for Removal | Felony Conviction ¹⁶² | Death | Citizenship Status | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|----------------------------------|-------|--------------------|-----------------------------------|---------------------------------|
| Matching Criteria | 4 | 2 | 0 | 4 | Inactivity 20 |
| Notice of Removal | 4 | 0 | 0 | 4 | Catch-all Removal Authority 0 |
| Procedures to Contest | 4 | 0 | 0 | 4 | Caging / Mass Challenges 0 |
| Notice of Restoration to Voter | 0 | n/a | n/a | 2 | Total 52/100 = 52% |
| Notice of Restoration to Elec. Official | 2 | n/a | n/a | 2 | |

Safeguards Against Erroneous Removal

FIGURE 26

Michigan Safeguards from Removal



Michigan scored 70% for its safeguards to protect voters who do not learn that their registrations have been canceled or marked inactive until they attempt to vote in an election. Most importantly, Michigan offers its voters same-day registration both during the early voting period and on Election Day.¹⁶³ This process provides a method for voters who have been erroneously removed from the rolls to cast a regular ballot, although the voter cannot do so at the polling place only at the county clerk’s office.¹⁶⁴ Such voters are also required to show documentary proof of residence which can consist of a utility bill, bank statement, or government check as proof of residence).¹⁶⁵ Another positive for Michigan is that a voter who has been erroneously

¹⁶² Since Michigan law does not dictate removal of voters from the registration rolls while they are incarcerated and ineligible to vote, notice to election officials of the renewed eligibility of these voters post-release is not necessary.

¹⁶³ Mich. Comp. Laws § 168.497(2).

¹⁶⁴ Id.

¹⁶⁵ Id. at (2)-(4).

removed from the rolls due to a failure to respond to an address confirmation mailing may swear an oath attesting to the voter’s qualifications and vote a regular ballot.¹⁶⁶ Voters on the inactive list for previous inactivity may cast a regular ballot as well.¹⁶⁷

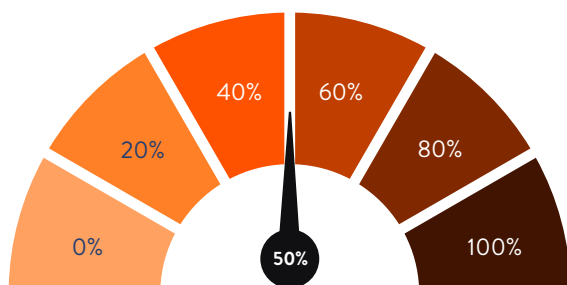
Table 26: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 30 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 20 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 70/100 = 70% |

Data Accessibility

FIGURE 27

Michigan Data Accessibility



Michigan scored 50% for data accessibility. Anyone can request the full voter file, and it comes in an electronic format.¹⁶⁸ However, the file is not free, although it is considerably less costly than voter files in other states,¹⁶⁹ and the timeline for receiving the file is unclear.¹⁷⁰ In addition, Michigan does not make the full file available for immediate download but instead requires submission of a “Qualified Voter File Data Request Form.”¹⁷¹

¹⁶⁶ Mich. Comp. Laws §§ 168.509r(6); 168.727; 168.729.

¹⁶⁷ Mich. Comp. Laws §§ 168.509r(7).

¹⁶⁸ Michigan Election Law § 168.522

¹⁶⁹ The EAC estimates the Michigan voter files costs around \$23. See U.S. Election Assistance Commission, “Availability of State Voter File and Confidential Information,” Updated October 29, 2020, available at https://www.eac.gov/sites/default/files/voters/Available_Voter_File_Information.pdf (last visited April 20, 2023).

¹⁷⁰ Mich. Comp. Laws 168.522(1).

¹⁷¹ Michigan Department of State, Bureau of Elections, “Qualified Voter File Data Request Form” available at https://www.michigan.gov/documents/FOIA_FORM_120378_7.pdf?msclkid=efbb9a11aed111ec84e135843b32f766 (last visited Feb. 18, 2023).

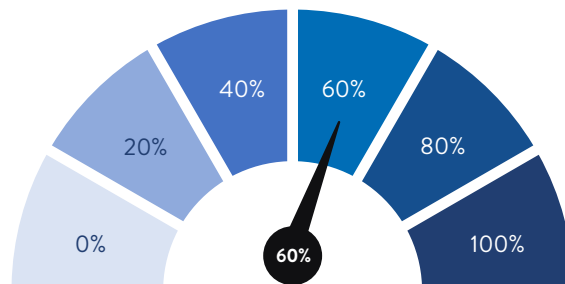
Table 27: Data Accessibility

| Indicator of Accessibility | |
|----------------------------------|---------------------|
| Complete File Publicly Available | 0 |
| Who Can Request File | 20 |
| Cost | 10 |
| Timeline | 0 |
| Format | 20 |
| Total | 50/100 = 50% |

Data Transparency

FIGURE 28

Michigan Data Transparency



Michigan scored 60% for data transparency. The file contains voter ID, voter status, and voting history, but not status reason code or race, as Michigan does not require registrants to provide their race or ethnicity.¹⁷²

Table 28: Data Transparency

| Indicator of Transparency | |
|---------------------------|---------------------|
| Race | 0 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 0 |
| Date Last Voted | 20 |
| Total | 60/100 = 60% |

¹⁷² *Id.*

Current Political Context

Voter access and list maintenance have been highly visible and partisan topics in state politics for the last few years. In 2022, a bill was introduced in the Senate requiring clerks to conduct more frequent checks for deceased voters, with daily checks required shortly before elections (a substantial burden for local election officials), but the bill did not pass.¹⁷³ In 2021, the Michigan legislature passed, but the Governor vetoed, bills that would have required the secretary of state to send address confirmations to any registered voter who has not voted since 2000, informing them that they must return the form within 15 days of an election (or be required to update information at the poll or be subjected to “challenge” status) (HB 4128), and delete voters’ registration records if their voter record does not include a birthdate and they fail to provide documentary proof of birthdate prior to 15 days before an election (HB 4127).¹⁷⁴ Although Michigan has some strong safeguards against erroneous removal, including same-day voter registration,¹⁷⁵ such removal practices can still harm voters if they do not bring the appropriate documents to the polls after being purged.

In the 2022 elections, Democrats won majorities in the Michigan House and Senate after many years of Republican control of the legislature. In addition, voters rejected Republican candidates for governor, secretary of state, and attorney general, who ran on a “vote-denial” platform questioning the validity of the 2020 Presidential election.¹⁷⁶ Voters also approved Proposal 2, another set of pro-voter reforms, including early voting.¹⁷⁷

It remains to be seen whether the shift in the state legislature will result in any new legislation regulating list maintenance. The secretary of state and numerous legislators have announced plans to introduce a package of legislation protecting election workers from harassment and doxxing and making other pro-democracy changes to state law.¹⁷⁸

¹⁷³ MMI S 966, available at <https://legiscan.com/MI/bill/SB0966/2021>.

¹⁷⁴ MI HB 4128, available at [http://www.legislature.mi.gov/\(S\(izceycnm23ru0sfigxcudcfz\)\)/mileg.aspx?page=GetObject&objectname=2021-HB-4128](http://www.legislature.mi.gov/(S(izceycnm23ru0sfigxcudcfz))/mileg.aspx?page=GetObject&objectname=2021-HB-4128) (last visited April 20, 2023); MI HB 4127, available at [https://www.legislature.mi.gov/\(S\(q0f54bc0pl3wo1njfghtxwgr\)\)/mileg.aspx?page=getObject&objectName=2021-HB-4127](https://www.legislature.mi.gov/(S(q0f54bc0pl3wo1njfghtxwgr))/mileg.aspx?page=getObject&objectName=2021-HB-4127) (last visited April 20, 2023).

¹⁷⁵ Michigan implemented same-day registration as part of a 2018 ballot proposal that made substantial improvements to election practices. Kat Stafford, “Voters approved Proposal 3, bringing sweeping changes to Michigan’s election law,” Detroit Free Press, November 6, 2018, available at <https://www.freep.com/story/news/politics/elections/2018/11/06/michigan-voting-proposal-3-results/1885266002/>.

¹⁷⁶ Fredreka Schouten, “With newfound powers, statehouse Democrats race to expand voting rights,” CNN, January 25, 2023, available at <https://www.cnn.com/2023/01/25/politics/statehouse-democrats-push-voting-rights-bills/index.html>.

¹⁷⁷ Clara Hendrickson, “Proposal 2: Voting rights proposal approved in Michigan,” Detroit Free Press, November 11, 2022, available at <https://www.freep.com/story/news/politics/elections/2022/11/09/proposal-2-michigan-results-election-2022/69599504007/>.

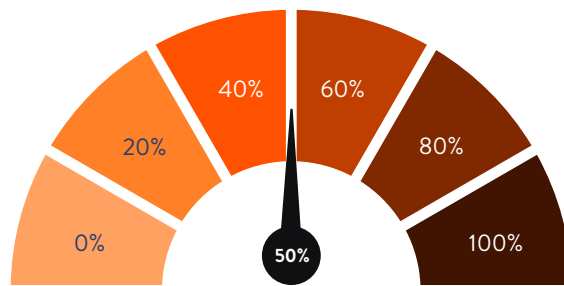
¹⁷⁸ Michigan Department of State, Press Release, “Benson and state lawmakers announce plans to protect the people who protect democracy,” January 17, 2023, available at <https://www.michigan.gov/sos/resources/news/2023/01/17/benson-announce-plans-to-protect-the-people-who-protect-democracy>.

North Carolina

Removal Practices

FIGURE 29

North Carolina Removal Practices



North Carolina scored 50% for its removal practices. The state employs many problematic procedures, including a “use it or lose it” policy whereby the county board initiates a removal process after every congressional election by sending a confirmation mailing to every registrant “if the county board has not confirmed the registrant’s address by another means.”¹⁷⁹

“By another means” refers to the clerk having a record that the person had voted or engaged in other election-related activities.¹⁸⁰ The voter is placed on the “inactive” list if they do not return the notice within 30 days and will be removed from the rolls if the voter does not vote during the next two general elections.¹⁸¹ After only two years of not voting, initiating a removal process is a particularly aggressive form of “use it or lose it.”

A North Carolina voter’s eligibility can also be challenged by any other voter in the county.¹⁸² This provision, unfortunately, can be used for abusive “voter caging.” Mail returned as undeliverable is treated as evidence that a

¹⁷⁹ N.C. Gen. Stat. 163-82.14(d)(2). “By another means” refers to voting or other election-related activity. State Board of Elections and Ethics Enforcement, Maintaining the Voter Registration Database in North Carolina, July 27, 2017, at 5-6, available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸⁰ State Board of Elections and Ethics Enforcement, Maintaining the Voter Registration Database in North Carolina, July 27, 2017, at 5-6, available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸¹ N.C. Gen. Stat. 163-82.14(d)(2); State Board of Elections and Ethics Enforcement, Maintaining the Voter Registration Database in North Carolina, July 27, 2017, at 7, available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy (last visited April 20 2023).

¹⁸² N.C. Gen. Stat. § 163-85.

person has moved,¹⁸³ which allows bad actors to target specific communities for mass mailings that can require hundreds of voters to attend hearings to defend their eligibility.¹⁸⁴

North Carolina has other problematic removal practices, as well. Although administrative guidance specifies matching criteria that must be satisfied before removing an individual who is flagged as having died,¹⁸⁵ neither statutes nor administrative guidance requires that a voter be notified when their registration is canceled because they are believed to have died. In terms of removals for felony convictions, state law does not specify data points that must match when comparing a conviction record to a voter's record. It merely requires the State Board of Elections to provide monthly lists to county boards of election of the name, county of residence, and residential address “if available” of persons convicted of felonies.¹⁸⁶ On the positive side, however, notice is required to a voter prior to removal based on a felony conviction,¹⁸⁷ and when a voter's eligibility is restored after completion of sentence, both the voter and election officials receive notice.¹⁸⁸

North Carolina also does not grant election officials “catch-all” authority to remove registered voters from the rolls; instead, state law requires specific reasons to cancel a voter's registration, either through the uniform list maintenance process or by a challenge from another registered voter.¹⁸⁹ North Carolina does not have a specific requirement for removing voters based on an adjudication of mental incapacity.¹⁹⁰

¹⁸³ N.C. Gen. Stat. § 163-85 (e).

¹⁸⁴ A federal court has issued a permanent injunction barring the use of “generic” evidence to challenge a voter's registration within 90 days before a federal election. North Carolina State Conference of NAACP v. Bipartisan State Board of Elections and Ethics Enforcement, 2018 WL 3748172 (M.D. N.C. 2018); see also Institute for Southern Studies & NC Voters for Clean Elections, *Blueprint for a Stronger Democracy*, Spring 2023, at 26-27. North Carolina law has not been changed to reflect this ruling, but the state board of elections has issued a directive to implement the ruling. North Carolina State Board of Elections, *Numbered Memo 2018-7*, available at <https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2018/Numbered%20Memo%202018-07.pdf> (last visited April 20, 2023) (directing county clerks not to allow mass challenges based on generic evidence within 90 days of an election). The court ruling does not affect our scoring, because it still allows mass challenges outside of the 90-day pre-election period.

¹⁸⁵ North Carolina State Board of Elections and Ethics Enforcement, “Maintaining the Voter Registration Database in North Carolina,” July 27, 2017, at 24 (“When researching the list of registered voters, the CBE may not remove a voter unless there is an exact database match on the voter's name, date of birth and/or identification information with the deceased records received from DHHS or a near relative”), available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸⁶ N.C. Gen. Stat. § 163-82.14(c)(1). Guidance from the State Board of Elections states that “[u]nless a county board of elections is confident that the matched felon information matches the voter's information, the county shall not remove the voter.” However, we see this guidance as too vague to provide adequate protection from erroneous removal for these voters, absent a clear definition of what “confident” means. State Board of Elections and Ethics Enforcement, *Maintaining the Voter Registration Database in North Carolina*, July 27, 2017, at 29 available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸⁷ *Id.* (clerk must send notice providing 30 days to object if the voter believes they are being erroneously removed for a felony conviction).

¹⁸⁸ *Id.* see also N.C. Gen. Stat. § 13-2(a).

¹⁸⁹ N.C. Gen. Stat. §§ 163-82.14, 163-85(c).

¹⁹⁰ See N.C. Const. art VI § 2 (specifying disqualification based on felony conviction but not for judgment of mental incapacity). See also “State Laws Affecting the Voting Rights of People with Mental Disabilities,” Bazelon Center for Mental Health Law, 2016, available at http://www.bazelon.org/wp-content/uploads/2017/11/2016_State-Laws-Affecting-Voting-Rights-of-PWD.pdf (last visited April 20, 2023).

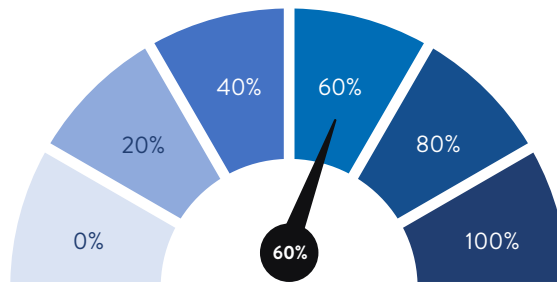
Table 29: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status ¹⁹¹ | Adjudication of Mental Incapacity ¹⁹² | Other Reasons for Removal |
|---|-------------------|-------|-----------------------------------|--|---------------------------------|
| Matching Criteria | 2 | 4 | 4 | 4 | Inactivity 0 |
| Notice of Removal | 4 | 0 | 4 | 4 | Catch-all Removal Authority 4 |
| Procedures to Contest | 4 | 0 | 4 | 4 | Caging / Mass Challenges 0 |
| Notice of Restoration to Voter | 2 | n/a | n/a | 2 | Total 50/100 = 50% |
| Notice of Restoration to Elec. Official | 2 | n/a | n/a | 2 | |

Safeguards Against Erroneous Removal

FIGURE 30

North Carolina Safeguards from Removal



North Carolina scored 60% for its safeguards to protect voters who learn that their registrations have been canceled or marked inactive only when attempting to vote. Importantly, North Carolina provides same-day registration—though it is available only during early voting and not on Election Day itself—and allows same-day registrants to cast regular ballots rather than provisional ballots.¹⁹³ The state also allows voters who have been removed based on a suspected change of address to cast a regular ballot by affirming

¹⁹¹ State law does not establish a process for targeting registered voters for citizenship review, nor does the state give election officials “catch-all” removal authority, so we have given North Carolina full points for this.

¹⁹² State law does not disenfranchise voters based on a judgment of mental incapacity to vote, so we have given North Carolina full points.

¹⁹³ Register in Person During Early Voting, North Carolina State Board of Elections, <https://www.ncsbe.gov/registering/how-register/register-person-during-early-voting> (last visited Feb 19, 2023). Note that SDR is available in North Carolina only because a federal court struck down the legislature’s effort to repeal it. *North Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

that they continue to reside at the same address.¹⁹⁴ However, same-day registrants have to present documentation of residency or identity above and beyond the ID requirements to vote.¹⁹⁵

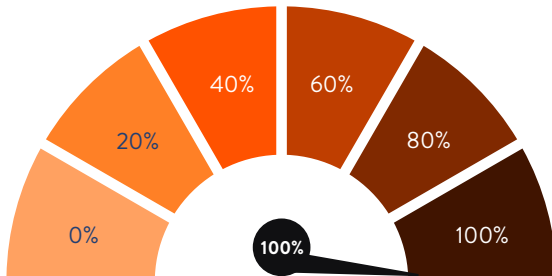
Table 30: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 20 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 20 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 60/100 = 60% |

Data Accessibility

FIGURE 31

North Carolina Data Accessibility



North Carolina received a perfect score for data accessibility. The complete file is fully available to the public, is updated weekly, can be immediately downloaded for free, and comes in an electronic format.¹⁹⁶

¹⁹⁴ N.C. Gen. Stat. §§ 163-82.14(d)(3).

¹⁹⁵ Register in Person During Early Voting, North Carolina State Board of Elections, <https://www.ncsbe.gov/registering/how-register/register-person-during-early-voting> (last visited Apr 21, 2023).

¹⁹⁶ N.C. Gen. Stat. § 163-82.10; see also North Carolina Board of Elections “Voter Registration Data” available at <https://www.ncsbe.gov/results-data/voter-registration-data?msclkid=0027ffeaedb11eca7eba5dfe8321111> (last visited April 20, 2023).

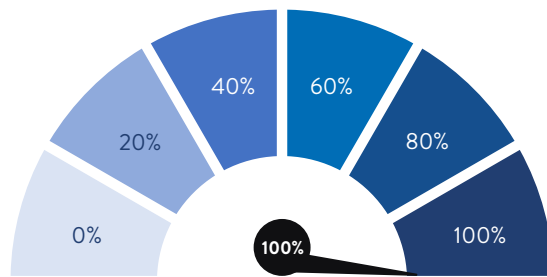
Table 31: Data Accessibility

| Indicator of Accessibility | |
|----------------------------------|-----------------------|
| Complete File Publicly Available | 20 |
| Who Can Request File | 20 |
| Cost | 20 |
| Timeline | 20 |
| Format | 20 |
| Total | 100/100 = 100% |

Data Transparency

FIGURE 32

North Carolina Data Transparency



North Carolina received a perfect score for data transparency. The voter file contains all of the categories of information in our scoring, including voter registration status and status reason code, voter demographics like race and ethnicity, voter registration or identification number, and date last voted.¹⁹⁷ While North Carolina scored perfectly on the data measures we evaluated, one way the state could make its data even more accessible and transparent would be for the state board to regularly issue reports on monthly removals, so researchers and advocates can monitor the data for potential erroneous removals and contact eligible voters who may have been removed.

¹⁹⁷ North Carolina State Board of Elections, Current Voter Registration Data, available at <https://www.ncsbe.gov/results-data/voter-registration-data#current-data> (last visited April 20, 2023). See also the voter file layouts, available at https://s3.amazonaws.com/dl.ncsbe.gov/data/layout_ncvoter.txt and https://s3.amazonaws.com/dl.ncsbe.gov/data/layout_ncvhis.txt (last visited April 20, 2023).

Table 32: Data Transparency

| Indicator of Transparency | |
|---------------------------|-----------------------|
| Race | 20 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 20 |
| Date Last Voted | 20 |
| Total | 100/100 = 100% |

Current Political Context

North Carolina's voting laws have been a battleground in the courts, especially since the U.S. Supreme Court in 2013 struck down the preclearance provisions of the Voting Rights Act of 1965.¹⁹⁸ Battles related to purge provisions have been no exception. The legislature attempted to eliminate SDR, an important safeguard against erroneous voter purges, as part of a package of restrictive voting laws enacted in 2013, but the Fourth Circuit found the repeal unlawful as an intentional effort to suppress the Black vote.¹⁹⁹ North Carolina citizens have also successfully sued over efforts to use the state's challenge law for abusive, large-scale challenges to voters' eligibility.²⁰⁰ And researchers and advocates are closely monitoring the state's list maintenance to identify, combat, and attempt to correct wrongful, discriminatory purges.²⁰¹

The legislature had only a short session in 2022 and did not enact major changes to election laws, but anti-voter bills have been introduced in the 2023 session, including a bill that would prohibit North Carolina's planned participation in the Electronic Registration Information Center (ERIC), which has been helpful to many states in sharing data on voters who have moved between states; the state had planned to join in mid-2023.²⁰² There is also a bill to drastically shorten the period for early voting (and same-day registration),²⁰³ one to require all same-day registrants to cast provision-

¹⁹⁸ *Shelby County v. Holder*, 133 S.Ct. 2612 (2013).

¹⁹⁹ *North Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

²⁰⁰ *North Carolina State Conference of NAACP v. Bipartisan State Board of Elections and Ethics Enforcement*, 2018 WL 3748172 (M.D. N.C. 2018) (enjoining removals based on mass challenges as violating the NVRA).

²⁰¹ "Understanding Voter List Maintenance," Southern Coalition for Social Justice, <https://southerncoalition.org/resources/understanding-voter-registration-list-maintenance/>; and "North Carolina Voter List Maintenance: 2023 Update," Southern Coalition for Social Justice, <https://southerncoalition.org/resources/north-carolina-voter-list-maintenance-2023-update/>.

²⁰² NC HB 396, available at <https://www.ncleg.gov/BillLookup/2023/H396> (last visited April 10, 2023).

²⁰³ NC HB 303, available at <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H303v0.pdf>; HB134, available at <https://www.ncleg.gov/BillLookUp/2023/H134> (last visited April 10, 2023).

al ballots,²⁰⁴ one that would require purges of voters based on potentially inaccurate citizenship information,²⁰⁵ and one to defund the state's election infrastructure,²⁰⁶ among other harmful proposals. However, a different bill introduced in March 2023 would, among other things, improve list maintenance practices by setting forth specific matching criteria that county boards of elections must use before removing an individual from the voting rolls based on county death records.²⁰⁷

²⁰⁴ HB 485, available at <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H485v1.pdf> (last visited April 10, 2023).

²⁰⁵ SB 352, available at <https://www.ncleg.gov/Sessions/2023/Bills/Senate/PDF/S352v1.pdf> (last visited April 10, 2023).

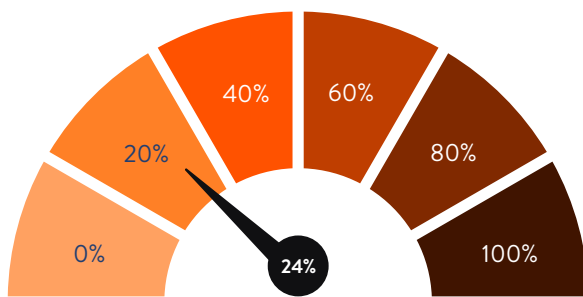
²⁰⁶ NC SB 89, available at <https://www.ncleg.gov/BillLookup/Index/2023/S89/True> (last visited April 10, 2023).

²⁰⁷ NC H 362, available at <https://www.ncleg.gov/BillLookup/2023/H362> (last visited April 10, 2023).

Removal Practices

FIGURE 33

Ohio Removal Practices



Ohio scored 24% for removal practices, the lowest score of any state we analyzed. Ohio provides notice of removal for cancellations based on death or citizenship status—before removal for alleged noncitizens,²⁰⁸ after removal for purported deceased voters²⁰⁹ and a clear process exists for contesting erroneous removals. Ohio law also sets out a clear statement of the information a county clerk must provide to election officials for identifying recent disqualifying convictions,²¹⁰ deaths,²¹¹ and adjudication of mental incapacity,²¹² although it does not require those criteria to match. Ohio also does not give election officials catch-all removal authority; instead, it prohibits the cancellation of a voter’s registration for any reason other than those listed in the code.²¹³

In other respects, however, Ohio’s processes are opaque and unfavorable to voters. Ohio has a “use it or lose it” policy that triggers a removal process for voters who fail to vote or engage in other electoral activity for a mere two years. Such voters are required to confirm their current address by returning a postcard mailing, and their registrations will be canceled if they fail to

²⁰⁸ Ohio Rev. Code § 3503.15(H).

²⁰⁹ Ohio Rev. Code § 3503.21(F).

²¹⁰ Ohio Rev. Code § 3503.18(C),(D).

²¹¹ Ohio Rev. Code § 3503.18(A),(D).

²¹² Ohio Rev. Code § 3503.18(B)(D).

²¹³ Ohio Rev. Code § 3503.21(A), (C).

respond to the confirmation notice and do not vote for another two general election cycles.²¹⁴ In 2019 alone, the state came close to purging thousands of voters in error based on faulty data regarding their inactivity.²¹⁵

In addition, Ohio law does not specify which matching criteria must be provided or matched when reviewing information regarding alleged non-citizens.²¹⁶ Ohio law does not specifically provide for notice before removal for a finding of mental incapacity or felony convictions,²¹⁷ nor when voting rights are restored for these forms of disqualification;²¹⁸ nor does it provide a clear way to contest a wrongful removal on these grounds.²¹⁹ Finally, Ohio allows mass voter challenges by private parties, which can lead to discriminatory practices like voter caging that wrongfully remove eligible voters from the registration rolls.²²⁰

Table 33: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|-------------------|-------|--------------------|-----------------------------------|---------------------------------|
| Matching Criteria | 2 | 2 | 0 | 2 | Inactivity 0 |
| Notice of Removal | 0 | 2 | 4 | 0 | Catch-all Removal Authority 4 |
| Procedures to Contest | 0 | 4 | 4 | 0 | Caging / Mass Challenges 0 |
| Notice of Restoration to Voter | 0 | n/a | n/a | 0 | Total 24/100 = 24% |
| Notice of Restoration to Elec. Official | 0 | n/a | n/a | 0 | |

²¹⁴ Ohio Sec. of State Dir. 2022-08, Ch. 4, at 124, available at <https://www.ohiosos.gov/globalassets/elections/directives/2022/eom/dir2022-08-ch04.pdf> (last visited April 15, 2023); see also *Husted v. A. Philip Randolph Institute*, 138 S.Ct. 1833, 1840 (2018). Advocates challenged Ohio’s “use it or lose it” law as a violation of the National Voter Registration Act, but a closely divided Supreme Court upheld the practice in a 5-4 ruling in *Husted*.

²¹⁵ Nicholas Casey, “Ohio was set to purge 235,000 voter. It was wrong about 20%,” *The New York Times*, Oct. 14, 2019, <https://www.nytimes.com/2019/10/14/us/politics/ohio-voter-purge.html>.

²¹⁶ Ohio Rev. Code § 3503(H).

²¹⁷ Ohio Rev. Code §§ 3503.18, 3503.21(A)(4),(5).

²¹⁸ Ohio Rev. Code , § 2961.01(A)(2).

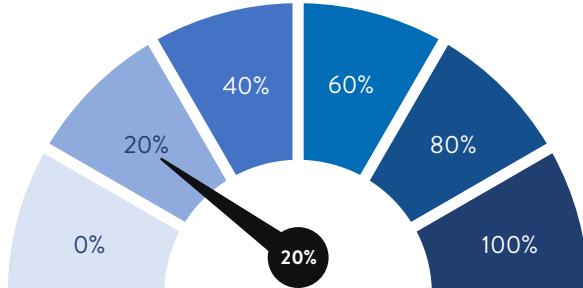
²¹⁹ Ohio Rev. Code §§ 3503.24 allows voters, broadly, to contest registration removals up until thirty days before an election, but since registrants are not notified of removals based on a finding of mental incapacity or felony conviction, it seems unlikely they would be aware of this provision.

²²⁰ Neither state law nor the Secretary of State’s challenge form require the challenger to attest to personal knowledge of a voter’s ineligibility, but the challenger must sign the form under penalty of election falsification. Ohio Rev. Code 3503.24(A); Ohio Secretary of State, Dir. 2022-08, Ch. 4, at 129, available at <https://www.ohiosos.gov/globalassets/elections/directives/2022/eom/dir2022-08-ch04.pdf> (last visited April 15, 2023).

Safeguards Against Erroneous Removal

FIGURE 34

Ohio Safeguards from Removal



Ohio scored 20% for the safeguards it has put in place to protect voters who only learn that their registrations have been canceled or marked inactive once they attempt to vote. Ohio administrative guidance provides that a voter with an “inactive” or “active-confirmation” voter status code is a “fully qualified elector,” which appears to allow such voters to cast regular ballots.²²¹ Critically, though, the state does not offer same-day registration²²² during early voting or on Election Day, which would allow an eligible voter whose registration was canceled in error to re-register and vote on-site.

Table 34: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Scope of Same-Day Registration (SDR) | 0 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 0 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 20/100 = 20% |

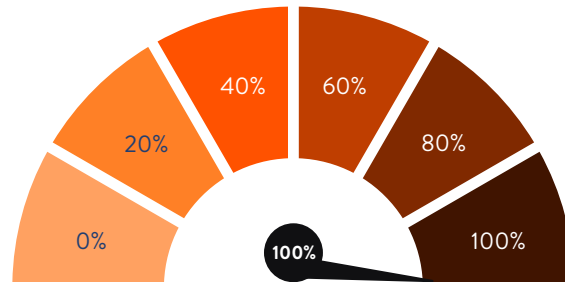
²²¹ Ohio Secretary of State Directive 2022-08, at 72, available at <https://www.ohiosos.gov/globalassets/elections/directives/2022/eom/dir2022-08-ch04.pdf> (last visited April 16, 2023).

²²² Ohio Rev. Code §§ 3503.19(A)(specifying a 30-day registration deadline)

Data Accessibility

FIGURE 35

Ohio Data Accessibility



Ohio scored 100% for data accessibility. The complete file is fully available to the public, updated weekly, and can be immediately downloaded in an electronic format for free.²²³ In addition to the voter file, Ohio also provides a website for voters to check if their voter status is in “awaiting-confirmation” status.²²⁴ It is not clear how often this site is updated.²²⁵

Table 35: Data Accessibility

| Indicator of Accessibility | |
|----------------------------------|-----------------------|
| Complete File Publicly Available | 20 |
| Who Can Request File | 20 |
| Cost | 20 |
| Timeline | 20 |
| Format | 20 |
| Total | 100/100 = 100% |

²²³ Ohio Secretary of State, “Voter Files Download Page,” available at <https://www6.ohiosos.gov/ords/f?p=VOTERFTP:STWD::#stwdVtrFiles>

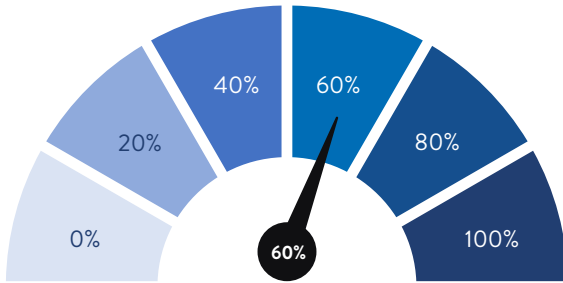
²²⁴ Ohio Secretary of State, “Registration Readiness Page,” available at <https://registrationreadiness.ohiosos.gov/#>

²²⁵ Secretary Frank LaRose, DIRECTIVE 2023-05, Feb. 28, 2023 <https://www.ohiosos.gov/globalassets/elections/directives/2023/dir2023-05.pdf>

Data Transparency

FIGURE 36

Ohio Data Transparency



Ohio scored 60% for data transparency. The file includes the voter ID number, confirmation notice under the voter status column, and voting history, but it does not include voter status reason code or race, as Ohio does not require registrants to provide their race or ethnicity.²²⁶

Table 36: Data Transparency

| Indicator of Transparency | |
|---------------------------|---------------------|
| Race | 0 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 0 |
| Date Last Voted | 20 |
| Total | 60/100 = 60% |

²²⁶ Ohio Secretary of State, "Voter File Layout," available at https://www6.ohiosos.gov/ords/f?p=VOTE_RFTP:STWD:::stwdVtrFiles

Current Political Context

Access to voting has remained contentious in Ohio in recent years. In 2021 and 2022, the Ohio legislature considered a bill (House Bill 294²²⁷) that would have slightly eased the process by which a voter can avoid cancellation of registration after receiving an address confirmation notice. It would have allowed a voter to remain on the rolls if they responded to the confirmation notice or updated a registration without necessarily then voting within a four-year period as well. The bill did not pass.

At the end of 2022, however, the legislature hurriedly enacted a bill (HB 458) which, while not directly affecting voter purge practices, makes it significantly more difficult to vote in Ohio—imposing one of the strictest voter ID laws in the nation, limiting early and mail-in voting, and making it more difficult for persons with disabilities to use curbside voting.²²⁸ Ohio organizations representing military veterans, retired Ohioans, and homeless persons, among others, filed suit against these restrictions in January 2023, arguing that they violate their fundamental right to vote.²²⁹

²²⁷ OH H.B. 294, available at https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_134/bills/hb294/IN/00/hb294_00_IN?format=pdf

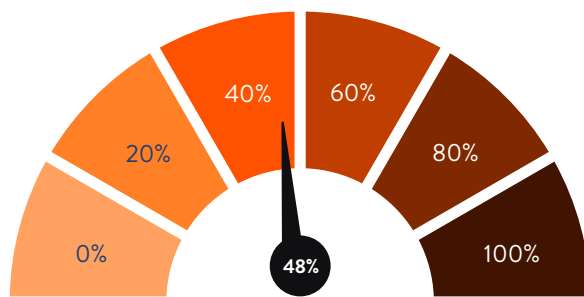
²²⁸ Sam Levine, *Ohio Republicans quietly enact 'alarming' new voting restrictions*, The Guardian, January 18, 2023, available at <https://www.theguardian.com/us-news/2023/jan/18/activists-sue-ohio-republican-voting-access-restrictions>.

²²⁹ Northeast Coalition for the Homeless, et al., v. Frank LaRose, et al., Case No. 1:23-cv-26-DCN (N.D. Ohio), amended complaint filed January 27, 2023, available at <https://www.democracymocket.com/wp-content/uploads/2023/01/OH-Voter-Suppression-Amended-Complaint.pdf> (last visited April 16, 2023).

Removal Practices

FIGURE 37

Texas Removal Practices



Texas scored 48% for its removal practices. Texas law currently does not initiate a cancellation process simply because a registered person does not vote in a certain number of elections (a “use it or lose it” process).²³⁰ This would change, however, under legislation pending in the 2023 legislative session (*see* “Current Political Context” below).²³¹ Texas also specifies clear matching criteria when canceling a registration due to death.²³² Texas requires notice to voters when canceling a registration based on a felony conviction, adjudication of mental incapacity, and citizenship status²³³—before cancellation based on citizenship status, but only after cancellation for conviction or adjudication of mental incapacity.²³⁴ State law also offers a clear process to contest such cancellations.²³⁵

However, Texas law does not specify which criteria must be provided or matched before canceling a voter’s registration based on a disqualifying conviction²³⁶ nor does state law require that voters or election officials be notified when a voter’s eligibility has been restored after a felony

²³⁰ Tex. Elec. Code §§ 14.001, 14.002, 14.021, 14.023.

²³¹ TX S.B. 260, available at <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/SB00260I.pdf> (last visited April 17, 2023).

²³² Tex. Elec. Code §§ 16.031(a)(2), (b), 18.068; 1 Tex. Admin. Code § 81.6(a).

²³³ Tex. Elec. Code §§ 16.0332, 16.033, 16.036.

²³⁴ Tex. Elec. Code § 16.031(a)(2),(3); § 16.036. Cf. Tex. Elec. Code §16.0332(a) (providing for pre-removal notice before purging for non-citizenship).

²³⁵ Tex. Elec. Code § 16.036.

²³⁶ Tex. Elec. Code §§ 16.031(a)(3), 16.0332, 18.068(a).

conviction.²³⁷ Texas law does specify that in the case of citizenship status, voter information that indicates non-citizenship must be derived from documents provided to the Department of Public Safety after the person’s current voter registration became effective.²³⁸ However, there are some indications that the implementation of this requirement is not happening accurately. Further, Texas does not have a notice or contestation process before canceling registrations due to suspected death.²³⁹ Texas also allows any voter in a county to challenge the registration of another voter in the county, which can lead to harmful and discriminatory practices like voter caging,²⁴⁰ and grants “catch-all” authority to registrars to challenge any registration they believe to be invalid.²⁴¹

Table 37: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|-------------------|-------|--------------------|-----------------------------------|-------------------------------------|
| Matching Criteria | 0 | 4 | 0 | 0 | Inactivity 20 |
| Notice of Removal | 2 | 0 | 4 | 2 | Catch-all Removal Authority 0 |
| Procedures to Contest | 4 | 0 | 4 | 4 | Caging / Mass Challenges 0 |
| Notice of Restoration to Voter | 0 | n/a | n/a | 2 | Total 48/100 = 48% |
| Notice of Restoration to Elec. Official | 0 | n/a | n/a | 2 | |

²³⁷ Tex. Elec. Code § 16.036.

²³⁸ Tex. Elec. Code §§ 16.0332

²³⁹ Tex. Elec. Code § 16.036.

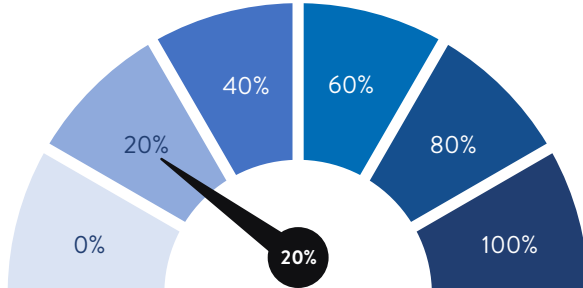
²⁴⁰ Tex. Elec. Code §§ 16.091-16.093.

²⁴¹ Tex. Elec. Code § 16.033.

Safeguards Against Erroneous Removal

FIGURE 38

Texas Safeguards from Removal



Texas scored only 20% for its safeguards to protect voters who do not learn that their registrations have been canceled or placed on the “suspense list” (marked inactive) until they attempt to vote in an election. Most importantly, Texas does not have same-day registration, which would provide a fail-safe opportunity for eligible voters to re-register.²⁴² Texas does, however, allow voters who have been placed on the suspense list based on a suspected change of address to cast a regular ballot after completing a statement affirming they did not move.²⁴³

Table 38: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Same-Day Registration (SDR) | 0 |
| SDR Identification Requirements | 0 |
| Regular or Provisional Ballot for SDR Voter | 0 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 20/100 = 20% |

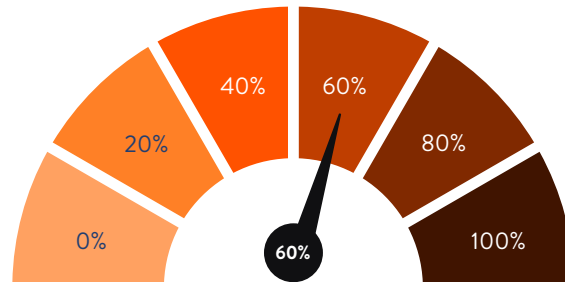
²⁴² Tex. Elec. Code § 16.033 (imposing 30-day registration deadline).

²⁴³ Tex. Elec. Code §§ 15.112, 63.001.

Data Accessibility

FIGURE 39

Texas Data Accessibility



Texas scored 60% for data accessibility. Anyone can request the complete file and receive it within 15 days, and it comes in an electronic format.²⁴⁴ However, the complete file is not available online for immediate download, and it costs well over \$1,000.²⁴⁵

Table 39: Data Accessibility

| Indicator of Accessibility | |
|----------------------------------|---------------------|
| Complete File Publicly Available | 0 |
| Who Can Request File | 20 |
| Cost | 0 |
| Timeline | 20 |
| Format | 20 |
| Total | 60/100 = 60% |

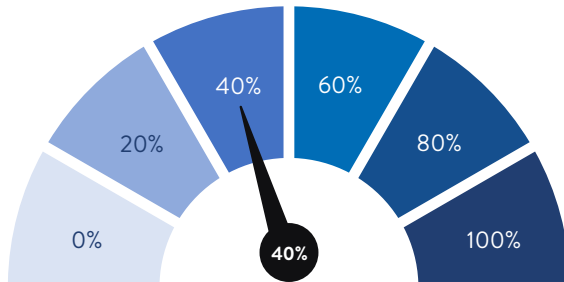
²⁴⁴ Tex. Elec. Code §18.008; see also Texas Secretary of State “Voter Registration Public Information Request Form” available at <https://www.sos.state.tx.us/elections/forms/pi.pdf>

²⁴⁵ *Id.*, page 6. The complete file costs \$328.13 plus \$0.0000625 per voter; in November 2022 there were more than 17.6 million registered voters in the state. See “Turnout and Voter Registration Figures (1970-current),” Texas Secretary of State, available at <https://www.sos.state.tx.us/elections/historical/70-92.shtml>.

Data Transparency

FIGURE 40

Texas Data Transparency



Texas scored 40% for data transparency. The file includes voter ID number and statuses but not race—as Texas does not require registrants to provide their race or ethnicity, status reason codes. Texas does give an option to request a file with Hispanic surnames flagged.²⁴⁶

Table 40: Data Transparency

| Indicator of Transparency | |
|---------------------------|---------------------|
| Race | 0 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 0 |
| Date Last Voted | 0 |
| Total | 40/100 = 40% |

²⁴⁶ See Tex. Elec. Code §§ 18.005; Texas Secretary of State “Voter Registration Public Information Request Form” available at <https://www.sos.state.tx.us/elections/forms/pi.pdf>.

Current Political Context

Texas has enacted numerous anti-voter bills in recent years, and its 2023-2024 session looks to be no exception. Senate Bill 260 would establish a “use it or lose it” process by triggering a voter’s removal from the voting rolls simply because the registrant has not voted within the last 25 months.²⁴⁷ This change alone would drop Texas’ score on removal practices to 28% from its current 48%. Following a flawed voter purge process that was implemented in 2019 that removed naturalized citizens from voting rolls, the state settled lawsuits challenging the process and agreed to update its data maintenance process.²⁴⁸ While H.B. 862 was introduced to repeal these changes and again make it more difficult to remove naturalized citizens²⁴⁹, the bill appears to have slowed and does not seem likely to pass.

The state also enacted new laws to punish election officials if they are seen as failing to act promptly enough to remove voters from the rolls pursuant to Texas’ requirements.²⁵⁰ However, problems have continued to surface with the State’s implementation of procedures for removing non-citizens from the voting list; the purge lists generated by the Secretary of State’s office in 2021 erroneously included scores of U.S. citizens²⁵¹ and have led to litigation.²⁵²

²⁴⁷ TX SB 260, available at <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/SB00260I.pdf> (last visited April 18, 2023)

²⁴⁸ Tex. Elec. Code § 16.0332 (codifying certain terms of the settlement). This change was enacted in the 2021 session; Texas did not hold a legislative session in 2022.

²⁴⁹ TX HB 862, available at <https://capitol.texas.gov/tlodocs/88R/billtext/html/HB00862I.htm> (last visited May 15, 2023)

²⁵⁰ TX SB 1, § 2.06 (2021), codified at Tex. Elec. Code § 18.065 (e) - (i).

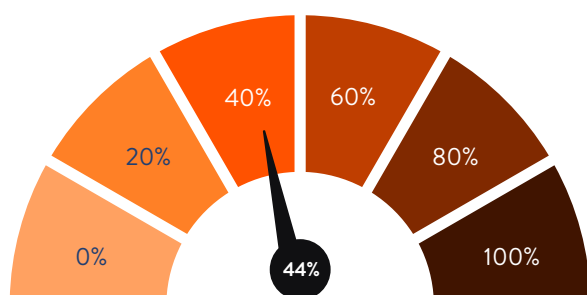
²⁵¹ Alexa Ura, “Texans’ renewed voter citizenship review is still flagging citizens as “possible non-U.S. citizens,” *The Texas Tribune*, Dec. 17, 2021, <https://www.texastribune.org/2021/12/17/texas-voter-roll-review/>.

²⁵² Alexa Ura, “Before the legislation is even signed, Texas’ new voting rules are challenged in two federal lawsuits,” *The Texas Tribune*, September 3, 2021, <https://www.texastribune.org/2021/09/03/texas-voting-lawsuit/>. The lawsuits have been consolidated, and trial is set for September 11, 2023. *La Union Del Pueblo Entero v. Abbott*, Case No. SA-21-CV-00844-XR (W. D. Tex.), Second Amended Scheduling order, March 30, 2023.

Removal Practices

FIGURE 41

Wisconsin Removal Practices



Wisconsin scored 44% for its removal practices. Among its positive practices, Wisconsin does not appear to allow private parties to make mass challenges to other voters' eligibility, although it does allow individualized challenges supported by an affidavit.²⁵³ For such challenges, the burden of proof is on the challenger to prove the person's ineligibility beyond a reasonable doubt.²⁵⁴ Wisconsin also notifies voters when their eligibility is restored following disenfranchisement based on a felony conviction²⁵⁵ or adjudication of mental incapacity,²⁵⁶ and informs election officials when a person's eligibility is restored following disenfranchisement for adjudication of mental incapacity.²⁵⁷ Removals for non-citizenship apparently occur only as a result of the individualized challenge process described above, which provides for notice and a procedure to contest the removal.²⁵⁸

However, neither statute nor regulation ensures that election officials are informed when a person's eligibility has been restored following felony disenfranchisement.²⁵⁹ Further, Wisconsin initiates a removal process when a

²⁵³ Wisc. Stat. § 6.48(1). The challenger must reside in the same municipality as the challenged voter, Wisc. Stat. § 6.48(1)(a), and must appear in person before the municipal clerk in order to support the challenge, Wisc. Stat. § 6.48(1)(b). Wisconsin allows individualized challenges at the polling place as well. Wisc. Stat. §§ 6.92, 6.925.

²⁵⁴ Wisc. Stat. § 6.325. Together, these safeguards appear to discourage mass challenges.

²⁵⁵ Wisc. Stat. § 304.078(3).

²⁵⁶ Wisc. Stat. § 54.25(2)(c)(4).

²⁵⁷ Wisc. Stat. § 54.25(2)(c)(1)(g).

²⁵⁸ Wisc. Stat. §§ 6.325, 6.48.

²⁵⁹ Wisc. Stat. § 301.03(20m)(requiring election officials to be given notice on an ongoing basis of those individuals who have lost the right to register and vote, with no mention of notice of restoration); see Wisc. Admin. Code EL 3, generally, on voter registration.

person does not vote for four years—a problematic “use it or lose it” policy.²⁶⁰ Such voters are mailed a form to confirm their registration, and those who do not respond within 30 days are marked “ineligible” and are required to re-register when they appear at the polls, even if nothing about their eligibility has changed.²⁶¹ Wisconsin statutes and regulations generally do not establish which identifying criteria must be used when clerks attempt to match records on felony convictions, deaths, or findings of mental incapacity with individuals listed on the voting rolls or how to investigate and confirm accurate matches.²⁶² Wisconsin statutes and regulations do not require notice to a voter before their registration is canceled based on death or felony conviction.²⁶³ Finally, Wisconsin appears to grant “catch-all” authority to election officials to remove ineligible voters, although the grounds for such removals must be established beyond a reasonable doubt.²⁶⁴

Table 41: Removal Practices

| Reason for Removal | Felony Conviction | Death | Citizenship Status | Adjudication of Mental Incapacity | Other Reasons for Removal |
|---|-------------------|-------|--------------------|-----------------------------------|-------------------------------------|
| Matching Criteria | 0 | 0 | 4 | 0 | Inactivity 0 |
| Notice of Removal | 2 | 0 | 4 | 0 | Catch-all Removal Authority 0 |
| Procedures to Contest | 4 | 0 | 4 | 0 | Caging / Mass Challenges 20 |
| Notice of Restoration to Voter | 2 | n/a | n/a | 2 | Total 44/100 = 44% |
| Notice of Restoration to Elec. Official | 0 | n/a | n/a | 2 | |

²⁶⁰ Wisc. Stat. § 6.50(1), (2).

²⁶¹ Id. at (10). A municipal clerk may opt out of this process, however, if they instead use NCOA data to identify and remove individuals who have moved. Id. at (8).

²⁶² Wisc. Stat. § 6.325; Wis. Stat. § 6.50 (2), (4); Wis. Stat. § 54.25(2)(c)(1)(g), (4).

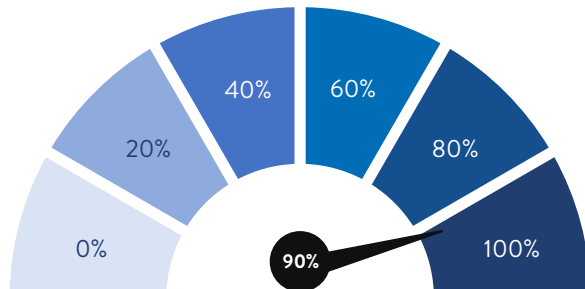
²⁶³ Regarding removals based on death, see Wisc. Stat. § 6.50(4) (providing that “no notice need be sent” to persons whose registrations are canceled because they are believed to have died); regarding removals based on felony conviction, see Wisconsin Election Administration Manual (2022), at 87: “Voter notification occurs at the point of inactivation in WisVote”; see also § 6.325 (regarding clerks’ powers to remove registration records, with no mention of providing advance notice to voters).

²⁶⁴ Wisc. Stat. § 6.325. The law allows municipal clerks or board of election commissioners to require naturalized registration applicants to show their naturalization certificates if challenged.

Safeguards Against Erroneous Removal

FIGURE 42

Wisconsin Safeguards from Removal



Although Wisconsin scored poorly for its removal practices, it scored 90% for its safeguards to protect voters who do not learn that their registrations have been canceled or marked inactive until they attempt to vote in an election. Wisconsin offers same-day registration during early voting and on Election Day.²⁶⁵ Further, except in rare circumstances, people who register during early voting or on Election Day generally cast regular ballots instead of provisional ones.²⁶⁶ Similarly, people whose registrations were erroneously marked ineligible because they allegedly moved will generally be able to cast regular ballots rather than provisional ones by using the same-day registration process.²⁶⁷

Wisconsin received a less than perfect score in this category because when people use same-day registration to correct an erroneous removal, they must provide documentary proof of residency, and not all of the photo IDs that voters can use to meet Wisconsin's ID requirement also meet its residency requirement.²⁶⁸ Thus, some people who discover that they unexpectedly need to re-register at the polls may not have the required documentation on hand to complete the process, such as a utility bill or paycheck.²⁶⁹ However, voters are allowed to show proof of residency electronically, e.g., a photo of a proof of residency on their phones, which makes this requirement relatively easier to meet.²⁷⁰

²⁶⁵ Wisc. Stat. §§ 6.28, 6.29, 6.55.

²⁶⁶ See § 6.55(2)(b); Wisc. Admin. Code EL 3.04.

²⁶⁷ Wisc. Stat. § 6.50(10).

²⁶⁸ Wisc. Stat. §§ 6.29; 6.34(2),(3); 6.55(2). See Election Administration Manual, Sept. 2022, at 78-81.

²⁶⁹ Wisc. Stat. § 6.34(3); Election Administration Manual, Sept. 2022, at 78-81.

²⁷⁰ *Id.*, at 81.

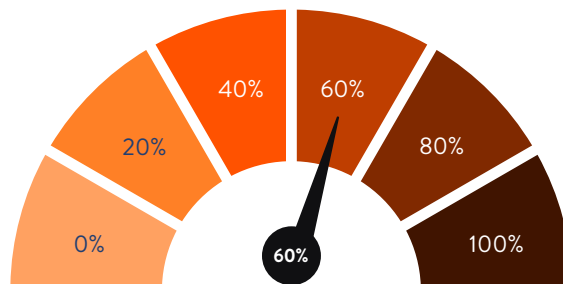
Table 42: Safeguards Against Erroneous Removal

| Safeguard | |
|--|---------------------|
| Same-Day Registration (SDR) | 40 |
| SDR Identification Requirements | 10 |
| Regular or Provisional Ballot for SDR Voter | 20 |
| Regular or Provisional Ballot for Correcting Inactive Status | 20 |
| Total | 90/100 = 90% |

Data Accessibility

FIGURE 43

Wisconsin Data Accessibility



Wisconsin scored 60% for data accessibility. The voter file is open to public inspection and can be downloaded immediately in an electronic format after payment is received.²⁷¹ However, the cost of the complete file is exceptionally expensive; it can cost up to \$12,500.²⁷²

Table 43: Data Accessibility

| Indicator of Accessibility | |
|----------------------------------|---------------------|
| Complete File Publicly Available | 0 |
| Who Can Request File | 20 |
| Cost | 0 |
| Timeline | 20 |
| Format | 20 |
| Total | 60/100 = 60% |

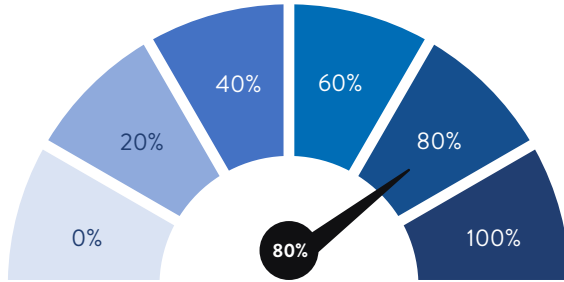
²⁷¹ Wisc. Admin. Code EL 3.50(4); Wisconsin Elections Commission, “Public Records Requests”, available at <https://elections.wi.gov/statistics-data/public-records-requests>

²⁷² Wisc. Admin. Code EL 3.50(4).

Data Transparency

FIGURE 44

Wisconsin Data Transparency



Wisconsin scored 80% for data transparency. The file does not include race, but it does include voter identification or registration number, voter status, voter reason code, and voting history.²⁷³

Table 44: Data Transparency

| Indicator of Transparency | |
|---------------------------|---------------------|
| Race | 0 |
| Voter ID Number | 20 |
| Voter Status | 20 |
| Status Reason Code | 20 |
| Date Last Voted | 20 |
| Total | 80/100 = 80% |

Current Political Context

Wisconsin has long been a battleground over voting procedures.²⁷⁴ In recent sessions, the Republican-controlled legislature has passed several anti-voter bills, several of which were successfully vetoed by the Democratic Governor. Examples included WI SB 943, which would have required legislative oversight of the Wisconsin Elections Board,²⁷⁵ and another, WI SB

²⁷³ Wisconsin Elections Commission, “Standard Data Elements in a Voter Data File Request,” available at <https://badgervoters.wi.gov/img/Voter%20Data%20Request%20Data%20Elements.pdf>.

²⁷⁴ See, e.g., Shawn Johnson and Laurel White, “As Voting Begins, A Look Back At The Fight Over Wisconsin’s Voter ID Law,” Wisconsin Public Radio, September 26, 2016 (tracing court battles over ID legislation since 2011), available at <https://www.wpr.org/voting-begins-look-back-fight-over-wisconsins-voter-id-law> (last visited April 21, 2023).

²⁷⁵ WI SB 943 (2021-2022 Session), available at <https://docs.legis.wisconsin.gov/2021/related/proposals/sb943> (last visited April 18, 2023).

938, which would have required the Board to verify the citizenship of all registered voters 60 days before absentee ballots are sent out without any guidance on what data points must match before removing individuals from the rolls.²⁷⁶

In its 2023 session, the legislature is considering another bill likely to lead to flawed purges of voters based on citizenship status if enacted. WI AB 93 would require the Wisconsin Elections Commission to use information from the Department of Transportation to identify alleged non-citizens who are on the voting rolls.²⁷⁷ DMV data are notoriously inaccurate when used for this purpose because an individual flagged as a non-citizen on the DMV rolls may have become naturalized before registering to vote. A similar removal process was attempted in Texas, but it was so riddled with errors that it was halted after litigation, and the Secretary of State who had implemented the program was forced to leave office.²⁷⁸

Another 2023 bill, WI SB 26, would also make voter list maintenance more restrictive.²⁷⁹ Under current practice, when Wisconsin officials obtain information indicating a voter may be ineligible, they mark the registration as such in the statewide database, but they do not remove the registration record. WI SB 26 would change this practice and immediately remove alleged ineligible voters from the system while maintaining a record of the removal and the reason for it. This means that anyone who has failed to vote in recent elections will not appear on the registration rolls and thus will not receive voting-related information from elections officials in the future and will have to re-register in order to continue voting, even if nothing has changed concerning their residence or eligibility.²⁸⁰ Similar bills were defeated in the 2022 legislative session.²⁸¹

²⁷⁶ WI SB 938, available at <https://docs.legis.wisconsin.gov/2021/related/vetoedinfull/sb938> (last visited April 18, 2023).

²⁷⁷ WI SB 93 (2023-2024 session), available at <https://docs.legis.wisconsin.gov/2023/related/proposals/ab93.pdf>.

²⁷⁸ *Texas League of United Latin Citizens v. Whitley*, 2019 WL 7938511 (W. Dist. Texas 2019); Alexa Ura, “Texas Secretary of State David Whitley departs as legislative session ends,” Texas Tribune, available at <https://www.texastribune.org/2019/05/27/texas-secretary-state-david-whitley-forced-leave-office/> (last visited April 18, 2023). Note, Demos, along with numerous partners, served as counsel in this litigation.

²⁷⁹ WI SB 26 (2023-2024 Session), available at <https://docs.legis.wisconsin.gov/2023/related/proposals/sb26> (last visited April 18, 2023).

²⁸⁰ *Id.*

²⁸¹ WI SB 804 (2021-2022 Session), available at <https://docs.legis.wisconsin.gov/2021/related/proposals/sb804> (last visited April 18, 2023).

Appendix D: Full Methodology

This report examines a range of factors that impact how a state purges voters, as well as advocates’ ability to prevent problematic purges. It evaluates and scores (1) states’ removal practices; (2) the safeguards states have to ensure eligible people who have been wrongfully removed from the voter rolls are able to cast a ballot that counts; (3) the accessibility of data relevant to a state’s removal practices, and (4) the transparency of such data.

To understand laws and practices on voter purges and data transparency and accessibility, we studied the state code, state regulations, and official guidance from statewide or local election officials. We did not seek additional information through records requests or litigation, instead prioritizing information that is accessible to the public and transparent. We also consulted with advocates and experts in each state. While our scoring is based on the published legal requirements in each state, we note in the state analyses any practices or nuances apparent from other guidance that may be useful as context. We also reviewed legislation introduced in recent sessions across all ten states to analyze trends and new threats.

After evaluating each state, we assign scores based on the point scale and methodology detailed below.

State Removal Practices

We analyze each state’s list maintenance and removal practices based on four common ineligibility criteria— felony convictions, death, citizenship status, and adjudication of mental incapacity— as well as the presence or absence of problematic removal practices: purging for inactivity, “catch-all” removal authority, and mass challenges to voters’ eligibility.

We first examine routine list maintenance involving removing voters from voter rolls based on felony convictions, death, citizenship status, and adjudication of mental incapacity. To prevent erroneous removals, voters should not be subject to removal without the use of clear and robust identifying criteria, which should match the individual on the registration rolls

and the alleged ineligible individual to ensure that the right person is being removed.

For each of those bases for removal, we look at whether specific identifying criteria are required, whether voters receive notice of removal before or after their removal (if at all), whether there are clear procedures for a voter to contest removal if they believe it is inaccurate, and, if applicable, whether notice is provided to election officials or voters when eligibility to register and vote is restored. We assign separate point values to each of those factors for each type of removal. The total possible points for these combined factors is 56 out of 100.

We also examine the state's policies regarding removal for voter inactivity, whether election officials have "catch-all" authority to remove a voter the official deems ineligible for reasons not specifically identified, and third-party challenges to voter eligibility, assigning point values to each based on how problematic the practice is. We view removals based on inactivity and removals based on mass challenges by private parties as particular threats to fair and accurate list maintenance. Accordingly, we assign the maximum of 20 points if a state does not use non-voting as a trigger for the removal process and 20 points if a state does not permit mass third-party challenges to voter eligibility. We assign four points if a state does not provide "catch-all" authority to election officials for removal based on non-specified grounds – i.e. if the state allows removal only for reasons specifically spelled out in statutes or regulations. States can receive an additional 44 points for fair practices related to these additional removal grounds. The maximum possible score is 100, and we assign each state a percentage-based score.

Removal Practices (100 possible points)

- **Removals for Felony Convictions (16 possible points)**
 - **Identifying Criteria:** Does state law establish identifying criteria for the removal of voters with disenfranchising convictions?
 - » Answer options:
 - » State law indicates which criteria must match (4 points)
 - » State law indicates which criteria must be provided or compared (2 points)
 - » No criteria listed (0 points)
 - **Notice of Removal:** Does state law require election officials to attempt to notify a voter before or after canceling the voter's registration based on information regarding a disenfranchising conviction? *Providing notice to the voter, ideally before removal, acts as an essential*

check against erroneous removals by alerting the voter that they need to contest or to re-register if they are at risk of being or were improperly removed.

» Answer options:

- » Notice required before cancellation (4 points)
- » Notice required after cancellation (2 points)
- » No notice required (0 points)

- **Clear Procedures to Contest Removal:** Does state law provide a process to respond to the notification and contest or appeal the removal if a voter believes it is being made in error? *State law should provide voters with a transparent, established process for contesting erroneous removals, and voters should receive clear notice of how to initiate the process.*

» Answer options:

- » Yes (4 points)
- » No (0 points)

- **Notice to Voters of Restoration:** Does state law require notification to voters when their eligibility is restored? *A significant barrier to registration for many returning citizens is a need for more clarity surrounding their voting eligibility and the registration requirements that may apply to them. This information should be shared with voters at the moment of restoration.*

» Answer options:

- » Notice required when eligibility is restored (2 points)
- » Notice provided about restoration rules generally (1 point)
- » No notice required (0 points)

- **Notice to Election Officials of Restoration:** Does state law require notice to election officials if a voter's eligibility is restored? *Election officials who are responsible for maintaining the voter rolls are typically notified when a voter is disenfranchised due to a felony conviction or judgment of mental incapacity through data-sharing arrangements with state departments of corrections, court systems, or other agencies. But those same officials are not always notified when the voter regains*

the right to vote. This can create confusion when returning citizens attempt to re-register; if official records erroneously indicate that a voter is still disenfranchised, the registrant may be asked to provide proof of eligibility when state law would not otherwise require it, or worse: they may be denied the opportunity to register or even referred for prosecution based on faulty data.

» Answer options:

- » Yes (2 points)
- » No (0 points)

- **Removals for Death (12 possible points)**

- **Identifying Criteria:** Does state law establish identifying criteria for the removal of voters who have died?

» Answer options:

- » State law indicates which criteria must match (4 points)
- » State law indicates which criteria must be provided or compared (2 points)
- » No criteria listed (0 points)

- **Notice of Removal:** Does state law require election officials to attempt to provide notification (to the voter or to a family/household member) before or after canceling the voter's registration based on information that the voter is deceased? *While it may seem counterintuitive to mail notice to a deceased voter or their household members, the notice acts as an important check against erroneous removals (in case the voter has been erroneously identified as being deceased).*

» Answer options:

- » Notice required before cancellation (4 points)
- » Notice required after cancellation (2 points)
- » No notice required (0 points)

- **Clear Procedures to Contest Removal:** Does state law provide a process to respond to the notification and contest or appeal the removal if a voter believes it is being made in error?

- » Answer options:
 - » Yes (4 points)
 - » No (0 points)
-

- **Removals Based on Citizenship Status (12 possible points)**

- **Identifying Criteria:** Does state law establish identifying criteria for the removal of voters based on alleged non-citizenship status?

- » Answer options:
 - » State law indicates which criteria must match (4 points)
 - » State law indicates which criteria must be provided or compared (2 points)
 - » No criteria listed (0 points)

- **Notice of Removal:** Does state law require election officials to attempt to notify a voter before or after canceling the voter's registration based on information indicating that the voter is not a citizen?

- » Answer options:
 - » Notice required before cancellation (4 points)
 - » Notice required after cancellation (2 points)
 - » No notice required (0 points)

- **Clear Procedures to Contest Removal:** Does state law provide a process to respond to the notification and contest or appeal the removal if a voter believes it is being made in error?

- » Answer options:
 - » Yes (4 points)
 - » No (0 points)

- **Removal Based on Adjudication of Mental Incapacity**
(16 possible points)

- **Identifying Criteria:** Does state law establish identifying criteria for the removal of voters based on a finding of mental incapacity?

» Answer options:

- » State law indicates which criteria must match (4 points)
- » State law indicates which criteria must be provided or compared (2 points)
- » No criteria listed (0 points)

- **Notice of Removal:** Does state law require election officials to attempt to notify a voter before or after canceling the voter's registration based on an adjudication of mental incapacity?

» Answer options:

- » Notice required before cancellation (4 points)
- » Notice required after cancellation (2 points)
- » No notice required (0 points)

- **Clear Procedures to Contest Removal:** Does state law provide a process to respond to the notification and contest or appeal the removal if a voter believes it is being made in error?

» Answer options:

- » Yes (4 points)
- » No (0 points)

- **Notice to Voters of Restoration:** Does state law require notification to voters if their eligibility is restored? *Voters whose judgment of mental incapacity is lifted may not know that their voting eligibility has been restored or may not understand the registration requirements that apply to them. This information should be shared with voters at the time of restoration.*

» Answer options:

- » Notice required when eligibility is restored (2 points)
- » Notice provided about restoration rules generally (1 point)
- » No notice required (0 points)

- **Notice to Election Officials of Restoration:** Does state law require notice to election officials if a voter's eligibility is restored?

» Answer options:

- » Yes (2 points)
 - » No (0 points)
-

- **Removal for Inactivity (20 possible points)**

- "Use It or Lose It:" Does state law initiate a removal or address confirmation process based solely on a voter's non-participation in one or more elections? *Such policies unfairly penalize voters who, for various reasons such as work responsibilities, caregiving responsibilities, or lack of transportation, may not be able to vote in every election or whose interest in particular elections may vary from cycle to cycle.*

» Answer options:

- » No (20 points)
 - » Yes, after more than four years of inactivity (5 points)
 - » Yes, after four or fewer years of inactivity (0 points)
-

- **Catch-all Removal Authority (4 possible points)**

- Does state law specifically limit the reasons election officials may remove a voter for ineligibility, or does state law provide election officials with "catch-all" authority to remove any voters the election official determines to be ineligible? *In some states, an election official can remove any "ineligible" voter without fully specifying the criteria the election official must consider. Open-ended catch-all removal authority can give state or local officials license to engage in removals based on faulty data or using processes that do not comply with the NVRA's protections.*

» Answer options:

- » No (4 points)
- » Yes (0 points)

- **Voter Caging and Mass Challenges (20 possible points)**

- Does state law permit private groups or individuals to seek voter removals by making mass challenges to the qualifications of registered voters? If such challenges are permitted, do they require court action on the part of the groups or individuals seeking to remove voters, or does the election official have full discretion? *ISuch laws effectively authorize voter caging and other dubious practices that are often used to target voters of color. Mass challenges are often based on mailings sent by third parties and returned as undeliverable or other indicators that a voter may have moved, such as NCOA data. But such data is notoriously unreliable, meaning that mass challenges by private parties may target disfavored groups without justification. While this is a harmful and discriminatory policy anywhere, the requirement that such individuals seeking to remove voters file court action is a deterrent and a safeguard. Note that in this report, we examine mass challenges to the eligibility of voters on a state’s registration rolls, usually before an election. Many states also allow challenges to a voter’s eligibility at the polls as an election is underway. We do not examine this second practice in this report, though it can also be problematic, and states that allow it should ensure proper safeguards to prevent harassment.*

» Answer options:

- » No (20 points)
- » Yes, but it requires court action (10 points)
- » Yes (0 points)

Safeguards Against Erroneous Removal

After assessing states’ removal practices to determine how likely a state may be to purge an eligible voter, we assess the safeguards each state has in place to protect eligible voters whose registrations have been erroneously canceled or marked inactive, which they may learn about only when they attempt to vote on Election Day or during early voting. We assign points to states based on the presence or absence of, as well as the details of, a policy allowing eligible voters to register and vote when they show up to the polls during early voting or on Election Day (same-day registration). Additionally, we assign points based on whether voters who have been moved to the “inactive” list based on flawed information can cast a regular ballot

or instead must cast a provisional ballot which may not be counted. The maximum possible score is 100, and we assign each state a percentage-based score.

Safeguards Against Erroneous Removal (100 possible points)

- **Same-Day Registration (80 possible points)**

- **Scope of Same-Day Registration:** Does the state offer same-day registration? *Same-day registration is a voter-friendly policy that allows voters to register and cast their ballot on the same day during early voting or on Election Day. It also serves as a valuable backstop that protects voters against disenfranchisement in the event that they are purged from the rolls based on faulty data or without receiving notice.*

» Answer options:

- » SDR available on Election Day and during early voting

(40 points)

- » SDR available on Election Day or during early voting, but not both (20 points)

- » No SDR (0 points)

- **SDR Voting Requirements:** Do people on the “inactive” or “ineligible” list (sometimes called “suspense” list or something else in other states) have to present documentation of residency or identity above and beyond the ID required for other registrants to vote? If they do, is the policy designed to make it relatively easy for an eligible voter who has been wrongfully purged to meet these requirements? *An erroneously purged voter may not be able to take advantage of same-day registration if it requires proof of residency or identity above and beyond what is normally required to vote in person, as the individual may not be aware that they have been purged from the rolls until they show up to vote. An example of a documentation requirement that is relatively unburdensome is one for which the eligible voter is allowed to show proof of residency electronically, e.g., a photo of a proof of residency on their phones.*

» Answer options:

- » No (20 points)

- » Yes, but the requirement is relatively unburdensome (10 points)

- » Yes (0 points)

- **SDR Voting Requirements:** Do same-day registrants generally cast a regular ballot or a provisional ballot? *By casting a regular ballot, the voter receives assurance on the spot that their vote will be counted. Problems may arise in the verification of provisional ballots, and a voter may not learn that their ballot was not counted until it's too late.*

» Answer options:

- » Regular ballot (20 points)
 - » Provisional ballot (0 points)
-

- **Correcting Inactive Status (20 possible points)**

- **Inactive Voters:** If a voter has been placed on the inactive list based on a suspected change of address, will the voter be permitted to cast a regular ballot (as opposed to a provisional ballot) by affirming that they continue to reside at the same address? *By casting a regular ballot, the voter receives assurance on the spot that their vote will be counted. If a voter is required to cast a provisional ballot, problems may arise in the verification of the ballot, and a voter may not learn that their ballot was not counted until it's too late.*

» Answer options:

- » Regular ballot (20 points)
- » Provisional ballot (0 points)

Data Accessibility

We score the accessibility of each state's data by analyzing whether the complete voter file is publicly available; who can request the voter file; what the cost is for obtaining the voter file; whether state law places a deadline on the election official to respond; and whether the voter file is provided in an electronic, tabular format. Note that some sub-jurisdictions within states provide more publicly available and robust data compared to that provided by the secretary of state's office (e.g., Milwaukee County has much better public data than the Wisconsin Elections Commission), but this section focuses on the type of data that the public may request from the secretary of state or statewide elections board.

To analyze a state's records request rules and access to data, we evaluated the following factors:

Data Accessibility (100 possible points)

- **Same-Day Registration (80 possible points)**

- Is the complete voter file fully available to the public at no cost? *Some states provide a complete voter file for free, while other states provide less information publicly and require individuals to buy the voter registration file. For example, Georgia has free public data on active voters that you can download from their website immediately, but you must buy the file to see inactive voters.*
 - » Voter file not fully publicly available (0 points)
 - » The complete voter file is publicly available and can be downloaded immediately (20 points)

-
- Who can request the file? *Some states will allow anyone to request a voter file, but others will only allow certain election officials, political groups, or a certain minimum number of residents to request a file.*
 - » Limitations on who can request the file (0 points)
 - » Anyone can request the file (20 points)

- What is the cost of buying a complete voter registration file?
 - » Complete voter file costs \$500 or more (0 points)
 - » Complete voter file costs \$101-\$500 (5 points)
 - » Complete voter file costs \$100 or less (10 points)
 - » Complete voter file is free (20 points)
-

- Is the Secretary of State's office required to respond to records requests within a set timeline? *Some states require that the Secretary of State's office must respond to a request to purchase a voter file within a set timeline, while other states do not have a set timeline for this.*
 - » No set response time is required by state law (0 points)
 - » The state has a law that requires that it responds to records requests within a set timeline—usually 14 days (20 points)
-

- Is the file in an electronic, tabular format? *oter files, even when paid for, are sometimes sent in an unusable format, such as PDF or text.*
 - » Voter file does not come in an electronic, tabular format (0 points)
 - » Voter file comes in an electronic, tabular format (20 points)

Data Transparency

We score data transparency based on the content of the voter registration file itself; we look for five key fields: a voter's race, their unique identifier (voter identification or registration number), their current status, the reason for that status, and their voting history (specifically, the date they last voted).

Data Transparency (100 possible points)

- What data is available in the registration file?
 - » Race field helps us determine if the purge may have been targeted at Black and brown communities.
 - » No race field (0 points)
 - » Race field included (20 points)
 - » Voter ID or registration number—this helps us compare who was on the voter roll when there are individuals with the same name.
 - » No voter ID number (0 points)
 - » Voter ID number included (20 points)
 - » Status field – this tells us if a voter is “active,” “inactive,” or “removed.” In some states with inactivity removal laws, a voter with inactive status might be at a higher risk of being purged.
 - » No status field (0 points)
 - » Status field indicates “active,” “inactive,” or “removed” (2 0 points)
 - » Status reason code field—this tells us why a voter was removed from the rolls or was placed on the inactive list, e.g., if the voter moved or died or was sent a confirmation notice.
 - » No status reason code (0 points)
 - » Status reason code field included (20 points)
 - » Date Last Voted—this tells us the last election(s) that a voter participated in and can help us gauge if a purge for inactivity was improper.
 - » No voter history code (0 points)
 - » Voter history code included (20 points)

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